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2004

# **Final Report of the Education and Local Government Interim Committee**



PO Box 201706  
Helena, MT 59620-1706  
PHONE: (406) 444-3064  
FAX: (406) 444-3036  
<http://leg.state.mt.us/>

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# Chapter 1

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## **Origins and Responsibilities of the Education and Local Government Interim Committee**

The Education and Local Government Interim Committee (Committee) was originally created as the Education Interim Committee by Senate Bill No. 11 (Chapter 19, Laws of 1999). During the 1999-2000 interim, two study resolutions relating to local government issues were assigned to the Committee by the Legislative Council. The membership of the Committee was expanded to 12 with the addition of 4 members from the House and Senate Local Government Committees. The name of the Committee was informally changed to the Education and Local Government Interim Committee. During the 2001 legislative session, the Montana Legislature passed Senate Bill No. 10 (Chapter 210, Laws of 2001) that made significant changes to the legislative interim committee structure, including statutorily changing the name of the Education Interim Committee to the Education and Local Government Interim Committee and assigning specific local government responsibilities to the Committee.

### **Committee Membership**

The Committee is composed of 12 members: 6 senators and 6 representatives appointed on a bipartisan basis. The Committee is appointed by the end of each legislative session and serves until the next Committee is appointed. The 2003-04 members were:

Senator Greg Barkus  
Senator Bill Glaser  
Senator Rick Laible  
Senator Jeff Mangan  
Senator Don Ryan  
Senator Debbie Shea

Representative Joan Andersen  
Representative Norm Ballantyne  
Representative Sue Dickenson  
Representative Tom Facey  
Representative Verdell Jackson  
Representative Larry Lehman

## **Committee Administration**

At its first meeting of the interim, on August 21, 2003, the Committee elected Representative Joan Andersen as Presiding Officer and Senator Don Ryan as Vice Presiding Officer. Three subcommittees were appointed during the interim as follows:

### K-12 Education Subcommittee

Rep. Larry Lehman, Presiding Officer  
Rep. Tom Facey

Rep. Norm Ballantyne  
Rep. Verdell Jackson

### Local Government Subcommittee

Sen. Jeff Mangan, Presiding Officer  
Sen. Bill Glaser

Rep. Joan Andersen  
Sen. Rick Laible

### Postsecondary Education Policy and Budget Subcommittee

Sen. Greg Barkus, Presiding Officer  
Sen. Don Ryan  
Regent John Mercer  
Governor's Representative David Gibson

Rep. Sue Dickenson  
Sen. Debbie Shea  
Regent Mark Semmens

The Committee was staffed by Connie Erickson, research analyst; Eddy McClure, attorney; and Rebecca Sattler and Fong Hom, secretaries. Leanne Kurtz, research analyst, staffed the Local Government Subcommittee. Pamela Joehler, senior fiscal analyst, and Alan Peura, associate fiscal analyst, Legislative Fiscal Division, staffed the Postsecondary Education Policy and Budget Subcommittee.

Over the interim, the full Committee met four times:

- ▶ August 21, 2003
- ▶ October 30, 2003
- ▶ June 9, 2004
- ▶ September 15, 2004



In addition to the regular Committee meetings, the three subcommittees met numerous times over the interim.

## Statutory Responsibilities



The committee is responsible for acting as a liaison with local governments and between both the legislative and Executive Branches and the Board of Regents of Higher Education. In addition, the Committee has specific responsibilities regarding the State Board of Education, the Board of Public Education, the Board of Regents, and the Office of Public Instruction, along with any entities attached to these agencies. Specifically, the Committee is responsible to:

- (1) review administrative rules within its jurisdiction;
- (2) monitor the operations of assigned Executive Branch agencies;
- (3) review proposed legislation of assigned agencies or entities; and
- (4) conduct any interim studies that are assigned to it by the Legislative Council.

*The committee is responsible for acting as a liaison with local governments and between both the legislative and Executive Branches and the Board of Regents of Higher Education.*

### **Administrative Rule Review**

At its first meeting of the interim, on August 21, 2003, the Committee directed staff to send a brief synopsis of the proposed rules to each Committee member prior to a meeting. If a member wanted more information, the rule was to be placed on the meeting agenda. The Committee did not review or discuss any administrative rules during the interim.

### **Agency Monitoring**

With regard to agency monitoring, the Committee decided that if the Committee, as a whole, or if individual members become aware of issues associated with the performance of an agency under Committee purview, the Committee would

request information from the agency and, if necessary, place the issue on a meeting agenda.

The Committee heard the following presentations by agencies under its jurisdiction:

- ❑ On August 21, 2003, Linda McCulloch, Superintendent of Public Instruction, addressed the Committee regarding the No Child Left Behind Act of 2001 and its impact on Montana education. She specifically discussed how "adequate yearly progress" is measured, the new qualifications for classroom teachers and paraprofessionals, and the "Reading First" grant that Montana received.
- ❑ On August 21, 2003, Dr. Kirk Miller, Chair of the Board of Public Education, gave a presentation on the Montana Accreditation Standards, teacher licensure, and the Board's involvement with the Public School Renewal Commission.
- ❑ On October 30, 2003, Edwin Jasmin, Chair of the Board of Regents, and Sheila Stearns, Commissioner of Higher Education, spoke to the Committee about key postsecondary education issues for the next 2 years. Discussion centered mainly on budget issues and potential measures for mitigating the projected deficits.
- ❑ On June 9, 2004, Commissioner Stearns presented the results of the investigation into the financial deficit at the University of Montana Athletic Department. She also presented a letter to the Committee from the Board of Education detailing the recent work of the Board. The letter was accompanied by a packet of information on the importance of an integrated system of education stretching from early childhood through graduate school.
- ❑ On September 15, 2004, Commissioner Stearns spoke to the Committee about the administrative assessments on University System land grant



income. The Board of Regents believes that the Legislature has been violating federal law and the Montana Constitution by levying these assessments and using them for nonuniversity purposes. At this time, the Regents do not wish to pursue legal action. Rather, the Regents would like to work with the Legislature and the Executive Branch to craft an acceptable compromise.

### **Review of Proposed Legislation**

One of the responsibilities of an interim committee is to "review proposed legislation of assigned agencies or entities as provided in the joint legislative rules". Rule C-4.2 of the Legislative Council Rules of Procedure states that before November 1, 2004, an agency may submit a bill draft request to the Legislative Services Division if the request has been reviewed by the appropriate interim committee and approved for drafting by that committee. The purpose behind the rule is to "speed up" the drafting of agency legislation prior to November when individual legislators begin requesting legislation. The rule is not intended as an approval process for agency legislation beyond approval for drafting.



*One of the responsibilities of an interim committee is to "review proposed legislation of assigned agencies or entities as provided in the joint legislative rules".*

At its final meeting of the interim on September 15, 2004, the Committee reviewed and approved for drafting legislation from the Office of Public Instruction, the Montana School for the Deaf and Blind, the Montana Historical Society, and the State Library.

### **Interim Studies**

The Committee was assigned one interim study. House Joint Resolution No. 37 (HJR 37) requested a review of the Montana Subdivision and Platting Act with recommendations to revise the Act so that it is clear, concise, and logically organized. The resolution did not envision exhaustive changes to the Act. The study was assigned to the Local Government Subcommittee. For a more complete

description of this study, as well as the other activities of the Subcommittee, please refer to Chapter Two of this report.

House Bill No. 736 , Chapter 548, Laws of 2003, established a K-12 Public School Renewal Commission to propose changes and new provisions regarding the several components of K-12 public education in Montana. The Commission was required to submit a final report of its findings and recommendations to the Committee by September 15, 2004. For a more complete description of the work of the Commission, please refer to Chapter Three of this report.

## **Committee Recommendations**

On June 9, 2004, the Committee approved legislation recommended by the Local Government Subcommittee as a result of the Subcommittee's work on HJR 37. On September 15, 2004, the Committee held its final meeting of the 2003-04 interim and formulated its final recommendations.

The Committee voted to sponsor legislation that:

- ☐ creates a K-12 Statewide Health Insurance Program for school employees; and
- ☐ encourages the Legislature to support the efforts of the Montana University System to strengthen the state's economy by implementing the policy recommendations identified by the Shared Leadership for a Stronger Montana Economy initiative.

Copies of the Committee-sponsored legislation can be found in Appendix A of this report.

# Chapter 2

## Subcommittee Reports

At its first meeting, on August 21, 2003, the Committee established three subcommittees: K-12 Education, Local Government, and Postsecondary Education Policy and Budget. Appointments to the subcommittees were made by Representative Andersen and Senator Ryan. The Committee believed that it could accomplish more by working in subcommittees. Each subcommittee developed its own work plan; HJR 37 was assigned to the Local Government Subcommittee. The subcommittees began meeting in October 2003 and met until September 2004.



*At its first meeting the Committee established three subcommittees: K-12 Education, Local Government, and Postsecondary Education Policy and Budget.*

### K-12 Education Subcommittee

The K-12 Education Subcommittee met for the first time on October 30, 2004. Following a presentation by Tom Bilodeau, MEA-MFT, the Subcommittee selected health insurance for school district employees as a study topic.

#### **Background**

There are over 200 school employee health care plans in Montana insuring approximately 16,000 public school employees and their dependents. The costs of insurance and the benefits offered vary widely from plan to plan. Because these plans are small in terms of the number of plan participants, they are unable to sustain economies of scale, control costs, and maintain benefits indefinitely. As a result, health insurance costs continue to rise, negatively impacting school district budgets and school employee salaries. The cost of health care and the lack of reasonable health insurance are major problems in the recruitment and retention

of teachers in Montana. The cost of health care may be the single-most divisive issue at school employee bargaining tables across Montana.



*The cost of health care and the lack of reasonable health insurance are major problems in the recruitment and retention of teachers in Montana.*

There are at least 70 small school districts that offer no health insurance to their employees. Even worse perhaps, there are approximately 4,000 school employees who are ineligible to participate in or, for various reasons, forego insurance coverage under existing local school district health plans. These employees either do not qualify because they hold part-time jobs or cannot afford the premiums for themselves and their dependents. Consequently, uninsured school employees contribute to the alarming number of uninsured Montanans and shift the high cost of their health care—when and if they seek it—to those who are insured.

During the 2003 legislative session, Representative Dave Lewis introduced House Bill No. 302 (HB 302) at the request of the MEA-MFT. HB 302 would have, if passed, established a statewide risk pool and health benefit plans for public school employees. School districts were required to provide health insurance benefits to their employees who were enrolled in the district's health insurance plan in the previous year. In other words, HB 302 covered only those employees who already had health insurance; it did not extend health insurance benefits to the uninsured. Instead of hundreds of health insurance plans across the state, HB 302 envisioned two statewide health insurance plans, basic and standard, from which school employees could choose, offered at an affordable cost. HB 302 was extensively amended in the House before the bill was transmitted to the Senate. Proponents and opponents of the legislation changed as the bill was amended. After an extensive hearing in the Senate Education and Cultural Resources Committee, the bill was tabled. Part of the problem with HB 302 was the inability of the education community to agree on the legislation.



## **Subcommittee Activities**

On January 9, 2004, the K-12 Education Subcommittee met with representatives from school districts, statewide educational organizations, and the health insurance industry to discuss the possibility of preparing legislation that would provide health insurance to all eligible public school employees in Montana. The impetus for the meeting was a proposal from MEA-MFT to address the issue of a lack of health insurance for many school employees. At the January 9 meeting, the K-12 Education Subcommittee told those in attendance that if the education community could come to some agreement on a health insurance proposal, the Subcommittee would consider recommending to the full Committee that the Committee adopt the proposal as a Committee bill. A K-12 Statewide Health Insurance Program Working Group was formed composed of those in attendance at the meeting, along with other interested persons. The members of the Working Group were:

- Blue Cross Blue Shield - Tanya Ask and Bev Spoja
- Billings Public Schools self-insured group - Jeff Greenfield and Dan Martin
- Deaconess Billings Clinic - John Jones
- Employee Benefit Management Services - Cori Cook
- Great Falls Public Schools - Judy Higgins and Donnie McVee
- MEA-MFT - Tom Bilodeau
- Missoula Public Schools self-insured group - Joe Potter and Marta York
- MT Association of County Superintendents - Dottie Donovan
- MT Association of School Business Officers - Lynda Brannon
- MT Rural Education Association - Dave Puyear
- MT School Boards Association - Lance Melton and Bob Vogel
- MT School Health and Welfare Program - Dixie Kibbee
- MT Small Schools Alliance - Claudette Morton
- MT Unified School Trust - Bob Robinson
- Office of Public Instruction - Joe Lamson
- School Administrators of Montana - Darrell Rud



Substantial assistance was also provided by Connie Welsh and Casi Hunter, Montana Department of Administration Employee Benefits Bureau; Carroll South, Board of Investments; Erin McGowan and Christina Goe, Insurance Commissioner's Office; and Jim Edwards, private insurance agent. Input was also received from the Governor's Office and Allegiance Health Plan Administrators. Employee Benefit Resources and the eBenX actuarial firm provided resource information and analysis to the Working Group.

The Working Group held several meetings during the first half of 2004. Considerable discussion centered on general policy objectives of a K-12 statewide health insurance program, establishment and administrative procedures, funding methods, school district participation, employee eligibility, governance, and other related issues. After considerable discussion and debate, the Working Group reached a general consensus on a legislative proposal—the K-12 SHIP—that was presented to the Committee on September 15, 2004. The Working Group recommended the proposal as draft legislation to the full Committee, and the Committee voted to approve the proposal as a Committee bill.

### **K-12 Statewide Health Insurance Program (K-12 SHIP)**

The K-12 SHIP is an entirely voluntary program on the part of employers (school districts and educational cooperatives). However, an incentive to participate comes in the form of a \$200 per eligible employee (does not include retirees or trustees) a month premium credit that is state-funded. Only those employers participating in the program will receive the state-funded credit. The decision by an employer to participate in the K-12 SHIP is final and irrevocable. In other words, "once in, never out". Persons who are eligible to participate include:

- (1) certified and classified employees, including dependents, who are:
  - (a) regularly employed at least 30 hours a week during the school year; or
  - (b) employed for less than 30 hours a week but determined eligible by a collective bargaining agreement or by employer policy;
- (2) current retirees enrolled in a group health insurance plan prior to employer participation in the K-12 SHIP;

- (3) future retirees who choose to participate at the time of retirement;  
and
- (4) school district trustees who are eligible to participate in accordance with state law or school district policy.

Eligible employees can choose to enroll in one of three health benefit plans: basic, standard, or preferred. Network care plans and a Medicare supplement plan will also be available. Eligible members can decline enrollment by means of a written and signed declaration acknowledging restricted future enrollment rights.

When a collective bargaining relationship exists, employers and bargaining units will negotiate:

- a tiered-rate or composite-rate premium payment structure;
- additional benefits, such as dental, vision, or life insurance; and
- the level of the employer contribution towards the premiums for health and other benefits.

In the absence of a collective bargaining relationship, the above decisions will be made by the employer.

The K-12 SHIP will be governed by a nine-member board appointed for 5-year staggered terms. The Governor will appoint the board members from nomination lists submitted as follows:

- four members (including a classified employee) who are enrolled in the K-12 SHIP from a list of nominees submitted by MEA-MFT;
- two representatives of school administrators from a list of nominees submitted jointly by the School Administrators of Montana and the Montana Association of County Superintendents of Schools;
- two representatives of school boards from a list of nominees submitted jointly by the Montana School Boards Association, the Montana Rural Education Association, and the Montana Association of School Business Officials; and

- one retired educator who is enrolled in the K-12 SHIP.

At least three of the employee members, one of the school administration members, and one of the trustee members must be from a first-class school district. The first-class districts are the largest school districts in the state.

The incentive credit will cost approximately \$48 million annually and will come from an appropriation indexed to the annual rate of medical cost inflation.

The Working Group believes that the K-12 SHIP will provide quality and affordable health insurance benefits to the vast majority of public school employees and retirees, will address issues of school employee compensation and retiree income protection, and will directly enhance the capacity of Montana schools to

recruit and retain high quality teachers. The K-12 SHIP will allow for

provide the equitable provision of quality health benefits to school employees and their dependents and is a cost-effective way of protecting state, school district, and family budgets in the face of ever-rising medical care costs.



*The Local Government Subcommittee had within its purview a host of public policy matters that affect the governance of cities, towns, counties, fire districts, weed districts, and water and sewer districts, not to mention roads, airports, taxes, housing, and emergency services, to name a few.*

## **Local Government Subcommittee**

As anyone who is familiar with the sheer volume of Title 7 of the Montana Code Annotated (MCA) can attest, the local government arena includes everything from soup to nuts *and* the kitchen sink. An entity called the Local Government Subcommittee had within its purview a host of public policy matters that affect the governance of cities, towns, counties, fire districts, weed districts, and water and sewer districts, not to mention roads, airports, taxes, housing, and emergency services, to name a few. The members of the 2003-04 Local Government Subcommittee (Subcommittee) considered a handful of local government-related items

brought to their attention early in the interim, but they quickly recognized that if they had any hope of accomplishing something by a September 2004, deadline, they would need to limit the scope of their work to the study that they had been assigned, which promised to be a complex and time-intensive project.

Therefore, the Subcommittee made the HJR 37 study of the Montana Subdivision and Platting Act (MSPA) its sole focus.

### **HJR 37 Study of the MSPA**

Of Montana's 93.156 million acres, about 26.14 million (28%) are under the jurisdiction of the federal government and more than 5 million (5.4%) compose state land, leaving around 62 million acres (about 67%) in private ownership. Privately owned land is made up of vast, sweeping ranches, small lots in town, and everything in between. How that private land is divided has been of interest to legislators since the First Legislative Assembly convened at Bannack in a frigid December in 1864, shortly after which "An Act concerning Partitions of Real Estate" was approved on February 9, 1865. It was Montana Territory's first subdivision bill. Countless measures affecting the division of land have been considered by subsequent legislative assemblies, and the subject of dividing land has become increasingly complex as Montana's economic landscape has changed and as the population has grown and shifted.

Heard often in planning and development circles is the statement: "All of the easy land has already been subdivided." Subdivisions these days on the land that hasn't already been divided or developed present planners, developers, realtors, builders, environmental advocates, and elected local government officials with a tangle of challenges, not the least of which is a complicated set of state statutes that govern the entire process.

The latest legislative measure to address subdivision of land recognized that reality and called for clarification of the statutes after decades of piecemeal amendments. HJR 37, sponsored by Representative Mark Noennig and passed by the 58th Legislature, requested that an interim committee review the MSPA. The resolution came about after a bill, House Bill No. 370 (HB 370) amending subdivision statutes failed to reach the House floor. In the April 23, 2003, Senate



Local Government Committee hearing for HJR 37 and in a memo to the Legislative Council urging the members to assign the study to an interim committee, Representative Noennig made the following points:

- Testimony against HB 370 indicated that the bill would have eliminated the "remainder doctrine", a concept that is not expressly provided for in statute but that is used by some local subdivision review entities to determine whether the land that is left in a parcel after a subdivision is carved out is subject to review.
- The term "minor subdivision" is used many times in the law but is never defined, nor is it clear when a minor subdivision should be reviewed.
- Subdivision law is interpreted and applied differently in different counties, and some review entities use a summary review procedure that is not well defined in statute.
- The ability of a local government to make decisions about minor subdivisions should be made clear.
- The law should allow for unique local regulations, but how those regulations are implemented should be consistent.

### **Subcommittee Activities**

To identify additional, specific problems with the MSPA and to frame its study, the Subcommittee solicited information from those who work with it on a regular basis. At its first meeting on October 30, 2003, the Subcommittee asked those in attendance to articulate in general terms the problems that they saw with the MSPA. Problems identified at the October meeting fell into six categories.



1. Time:
  - Review takes too long—developers lose valuable time.
  - It is difficult and takes too long to schedule a preapplication meeting in some jurisdictions.
  - It is unclear what other entities are consulted during the review process, what the expertise of the staff of those other entities is, and whether those entities are held to specific-time restrictions.
  - Timeframes are not consistent in the MCA: in some places, time is measured in "days", and in others, it is measured in "working days".
2. Incomplete Applications:
  - Incomplete applications or applications that do not meet the standards cost time at the state (DEQ) review level.
  - There is confusion over when an application is considered complete and when the "clock" starts and stops if an incomplete application must be returned to the developer.
3. Multiple Meetings:<sup>1</sup>

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<sup>1</sup> The problem of multiple meetings and new information presented at subsequent meetings was the subject of *Brandborg, et al. v. Board of County Commissioners of Ravalli County*. After a planning board hearing on a proposed subdivision, the Board of County Commissioners of Ravalli County (Board) approved the plat conditioned on obtaining additional ground water data. The court ruled in this case that because the Ravalli County subdivision regulations delegate the duty of collecting and analyzing data to the planning board, including receiving and considering any public comments based on any additional data, the Board "did not have the authority to approve the subdivision conditioned on obtaining additional data". In addition, the court ruled that "the Board's conditional approval also eliminated the public's right to comment in a public hearing before the planning board on any new data" and expert recommendations based on that data.

The HJR 37 Working Group and the Subcommittee spent considerable time discussing the court decision and how to reconcile the decision with desired changes to the MSPA. Section 76-3-605, MCA, allows for only one public hearing on a proposed subdivision. Additionally, as Eddy McClure, Subcommittee legal staff, explained, the Montana Constitution guarantees every person the right to "examine documents or to observe the deliberations of all public bodies . . ." (Article II, section 9). The public also "has a right to expect governmental agencies to afford such reasonable opportunity for citizen participation in the operation of the agencies prior to the final decision as may be provided by law" (Article II, section 8). Further, Ms. McClure explained, amendments to section 2-3-103, MCA, made through House Bill No. 94 by the 2003 Legislature, provided that an agency (defined, with some exceptions, as any state or local government authority authorized to make rules) "may not take action on any matter discussed unless specific notice of that matter is included on an agenda and public comment has been allowed on that matter".

- More than one meeting may be held to review an application (such as a Planning Board and a Board of County Commissioners) with the possibility of new information being presented at the second meeting after a recommendation has been made based on the first meeting's testimony.
- 4. Remainders:
  - Local jurisdictions differ in how remainders are handled and whether or not a survey is required for the remainder.
- 5. Definitions:
  - "Minor subdivision" is used in statute but is not defined.
- 6. Summary Review/Expedited Review:
  - Section 76-3-505, MCA, provides for summary review and for exemptions from hearing requirements and certain review criteria. However, to qualify for those exemptions, a proposed subdivision must be located in an area covered by a growth policy and zoning regulations. Countywide zoning is not occurring in Montana.

Also in October 2003, an invitation to comment on proposed changes to the MSPA (see Appendix B) was mailed to a list of organizations and individuals who had testified on HB 370 or who were otherwise identified as potential interested parties in the HJR 37 study. The invitation to comment was posted on the Subcommittee's website and was expressed to those who attended the Subcommittee's meeting.

Those who submitted comments were asked to present their information in detail to the Subcommittee at its meeting on January 9, 2004.

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In light of *Brandborg* and HB 94, Ms. McClure framed the question for the Working Group: With regard to subdivision review, how can the public's right to examine documents that represent the best and most credible evidence and the public's right to have a reasonable opportunity to participate be balanced with the local governing body's right to know that the process has predictable finality?

The Working Group's answer to the question can be found in New Section 9 of the proposed bill draft (Appendix A).

Prompted by the complaint that subdividers occasionally are not aware of all the information that is expected by local planning staff and when that information is required, the Subcommittee directed staff to survey local planners throughout the state. In December 2003, with assistance from the Montana Association of Planners (MAP) president Jeff Bollman, a questionnaire was distributed to local planners requesting information about preapplication conferences, whether they are required under the local regulations, how the preapplication process works, and whether preapplication conferences save time for the subdivider and planning staff. The responses proved to be valuable to the Subcommittee in making the decision to require local regulations to establish preapplication processes. The questionnaire and a summary of the responses are included in this report as Appendix C.

At the conclusion of the January 9 meeting, the Subcommittee recognized that there was common ground among the submitted proposals for changing the MSPA, so members asked those in attendance who were interested and inclined to develop language for a bill draft that incorporated the common interests.

An informal Working Group formed to put together such a "consensus" proposal. Primary participants were:

- Peggy Trenk and Michael Kakuk, Montana Association of Realtors
- Tim Davis, Montana Smart Growth Coalition
- Jeff Bollman, president, MAP and then-planner for the city of Billings
- Tammy McGill, vice president, MAP, and planner for Stillwater County
- Byron Roberts and Curt Chisholm, Montana Building Industry Association
- Myra Shults, attorney, Joint Powers Insurance Authority (Montana Association of Counties-affiliated)
- Anne Hedges, Montana Environmental Information Center
- Jim Kemble, represents the Montana Association of Registered Land Surveyors during legislative sessions

- Ray Lazuk and Jim Madden, Department of Environmental Quality (DEQ staff participated in Working Group discussions that involved state-level sanitation and water review)

The Working Group—its membership representing interests that are often at odds with one another—met several times from January through May and painstakingly negotiated the language that would be proposed in a bill draft to the Subcommittee and eventually to the full Committee.

The Subcommittee reviewed the bill draft in detail at its June 8, 2004, meeting and, with minimal changes, unanimously endorsed it. The next day, the Subcommittee recommended that the Committee formally request the bill. The Committee unanimously accepted the Subcommittee's recommendation, and Senator Laible agreed to carry the legislation.

The bill as it was requested by the Committee is included in this report in Appendix A and, until it is introduced, may be tracked on LAWS by its assigned number, LC 40.

### **Sanitation Review**

Although it was not central to the Working Group's mission during the interim, the water and sanitation review of subdivisions loomed as a thorny issue that would demand the Working Group's attention. The MSPA, which is codified in Title 76, chapter 3, MCA, regulates local government review of divisions of land that create parcels containing less than 160 acres. The Montana sanitation in subdivisions laws are codified in Title 76, chapter 4, MCA, and regulate state-level (Department of Environmental Quality (DEQ)) review of divisions of land that create parcels containing less than 20 acres.

It has not been clear to those tasked with developing local subdivision regulations under section 76-3-504, MCA, whether the local regulations must address water supply, sewage, and solid waste disposal for subdivisions involving parcels containing less than 160 acres that DEQ does not review (parcels from 20 acres to 160 acres). Myra Shults summarized the problem in a document prepared for a



Joint Powers Insurance Authority land use training program: "The standard procedure had been [for the local governing body] to conditionally approve subdivisions, requiring that prior to filing the final plat the subdivider obtain DEQ review and approval. DEQ does not review lots 20 acres and larger pursuant to Title 76, chapter 4 of the Montana Code Annotated."<sup>2</sup>

The Granite County Attorney requested that Attorney General McGrath issue an opinion on three specific questions regarding local government review of water and sanitation. The questions were:

1. Is a local governing body required to adopt subdivision regulation standards for water supply and sewage and solid waste disposal that are at least as stringent as the standards set forth in the Montana Department of Environmental Quality regulations?
2. Is a local governing body required to incorporate by reference into its subdivision regulations the standards for water supply and sewage and solid waste disposal adopted by the Montana Department of Environmental Quality?
3. When must a proposed subdivision undergo review to show compliance with local subdivision regulations?

Ms. Shults summarized the opinion (49 A.G. Op 7), issued August 17, 2001: "According to that opinion, counties not only must adopt subdivision regulations for water supply and sewage and solid waste disposal that are as stringent as those of DEQ, but also review of a proposed subdivision for compliance with these regulations must occur at the preliminary plat stage, rather than at the final plat stage."<sup>3</sup>

In the absence of legislative action, the opinion has the force of law, and numerous county planning offices and the development community have been wrestling with how to comply.

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<sup>2</sup> Myra Shults, "Heads Up III!; November 2003 JPIA Land Use Training", p. 6.

<sup>3</sup> Ibid.





*Lengthy discussions among Working Group members centered around the appropriate amount and nature of sanitation information that should be available at the preliminary plat stage of a proposed subdivision.*

Realizing that competing legislation from opposite points of view may surface to address sanitation review and with an interest in continuing in the spirit of consensus that had served the Working Group so well, lengthy discussions among Working Group members centered around the appropriate amount and nature of sanitation information that should be available at the preliminary plat stage of a proposed subdivision. Some members expressed belief that because water and other sanitation matters are based on science, they belong strictly within the realm of the scientists at DEQ, not before the planning board or a Board of County Commissioners. In addition, those in that camp maintained that getting all of the detailed sanitation data is an expense that subdividers should not be subject to

before they even know whether a proposed subdivision will meet the local governing body's other criteria.

Others asserted that the planning board and Board of County Commissioners are absolutely the appropriate venues for review of water and sanitation information, that the public has a right to comment on the information in the presence of those entities, and that a procedure for forwarding to DEQ the information along with the comments received at the local government level may streamline DEQ's review.

### **Subcommittee Activities**

The Working Group reported to the Subcommittee at its September 14, 2004, meeting that the Working Group's members had been able to reach agreement on four general concepts, but that many important details remained unresolved. See Appendix D for a description of the areas of general agreement. The Working Group pledged to the Subcommittee that it would continue its efforts to reach consensus on language to incorporate into a bill that would clarify state and local governments' roles in sanitation review of proposed subdivisions. The Working Group also expressed members' intention to involve local health departments in

its continuing discussions. Senator Mangan requested a bill (LC 394) that would be the vehicle for any sanitation review legislation to which all of the members of the Working Group, including the local health department representatives, could agree.

## **Postsecondary Education Policy and Budget Subcommittee**

The Postsecondary Education Policy and Budget (PEPB) Subcommittee met five times over the interim: December 10, 2003; January 20, 2004; March 24, 2004; May 19, 2004; and July 7, 2004. The major focus of the PEPB Subcommittee this interim was to work with the Board of Regents on developing a course of action by which the Montana University System (MUS) could take a greater, more defined role in growing Montana's economy and creating more good jobs for Montana citizens. This initiative became known as the "Shared Leadership for a Stronger Montana Economy".

### **"Shared Leadership for a Stronger Montana Economy"**

Beginning in the autumn of 2003, the Board of Regents held a series of discussions about the need for the MUS to take a more direct leadership role in the economic development of the state. The discussions came about because of a recognition on the part of the Regents of the need for states to compete in the rapidly changing global economy and of the relationship between a strong economy and a strong educational system. An ad hoc Working Group was formed to refine these discussions into a recommended course of action. The Working Group proposed a four-step process, three of which could be accomplished within a few months, while the fourth step would take 2 to 5 years.



*The Board of Regents held a series of discussions about the need for the Montana University System to take a more direct leadership role in the economic development of the state.*

Step One: Establish a leadership group to provide broad policy oversight and a project team to conduct the policy research and develop recommendations. The leadership group would be composed of leaders from the Legislative and Executive Branches and from business, education, and other relevant organizations. The project team would be composed of senior staff members of some of the entities represented on the leadership group and other staff persons from related agencies.

Step Two: Achieve broad-based agreement on the fundamental changes occurring in the world's economy and the implications of these changes for Montana.

Step Three: Achieve broad-based agreement on those areas that provide the best opportunity for change but still leverage the MUS's core competencies.

Step Four: Develop specific recommendations for action or policy changes. This last step will involve the formation of teams that will focus on each of the priority areas identified in Step Three by developing clear, anticipated outcomes and processes to achieve these outcomes.

The process was adopted by the Regents and the PEPB Subcommittee in January of 2004. In March of 2004, six initiative areas were identified and six project initiative teams were created to study and refine each initiative and develop an action plan for implementing each initiative. The six initiative areas were:

- access to higher education;
- worker training;
- technology transfer;
- entrepreneurship and small business development;
- support of state government; and
- generating direct economic growth.

At the May 19, 2004, joint meeting of the Board of Regents and the PEPB Subcommittee, the six initiatives were approved with amendments. The initiatives were then further refined by incorporating the amendments and other changes recommended by the leadership group and the project team. The refined initiatives are:

- MUS/business partnerships for workforce training and education;
- promotion and enhancement of access to postsecondary education;
- distance and online learning coordination across the MUS;
- MUS/business partnerships to forge stronger relationships between the MUS and the private sector;
- MUS and government collaboration to allow the MUS to become more engaged in helping the state solve some of the state's major problems; and
- MUS/Montana promotion partnership to promote Montana to prospective out-of-state students and alumni.

On July 7, 2004, the PEPB Subcommittee carefully reviewed and discussed the six initiatives and then chose its three top priorities. The priorities are, in no order of preference:

- workforce training and education;
- access to postsecondary education; and
- distance and online learning.

The Subcommittee also reaffirmed its support for all six initiatives and submitted a request for a resolution to the Committee encouraging the Legislature to support the implementation of the initiatives. At its September 15, 2004, meeting, the Committee approved the resolution as a Committee bill.

For a more complete discussion of the "Shared Leadership for a Stronger Montana Economy" project, please refer to Appendix E of this report.



## **Agreement on Policy Goals and Accountability Measures**

Last interim, the PEPB Subcommittee and the MUS entered into an agreement that identified statewide public postsecondary education policy goals and related accountability measures to be used as an assessment tool for policymakers, the MUS, and the public in evaluating the achievement of the policy goals. The policy goals and accountability measures are:

1. Prepare students for success through quality education.
  - a. completion rates
  - b. retention rates
2. Promote access and affordability.
  - a. affordability compared to other states
  - b. state support as a percent of personal income and per capita income
3. Deliver efficient, coordinated services.
  - a. transferability among institutions
  - b. percent of expenditures in instruction, administration, athletics, etc.
4. Be responsive to market and employment needs and opportunities.
  - a. job placement rates by field or program
  - b. growth in FTE enrollment, certificates, and degrees conferred in 2-year education
5. Contribute to Montana's economic and social success
  - a. research and development receipts and expenditures
  - b. technology transfer (licensing and commercialization)
6. Collaborate with the K-12 school system and with other postsecondary education systems.
  - a. collaborative programs with K-12, community colleges, tribal colleges, and private colleges (when appropriate)
  - b. average SAT or ACT scores of first-time, full-time MUS freshmen

The MUS further agreed to prepare an Accountability Report for the House and Senate Education Committees and the Joint Appropriations Subcommittee on



Education. The report must be posted on the Board of Regents' website and on the PEPB Subcommittee's website.

At its final interim meeting on July 7, 2004, the PEPB Subcommittee, in agreement with the Board of Regents, renewed the policy goals and accountability measures agreement for another 2 years. A copy of the agreement can be found in Appendix F of this report.

# Chapter Three

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## K-12 Public School Renewal Commission

### **Background**

The 2003 Legislature passed House Bill No. 736 (HB 736), a bipartisan measure that created a K-12 Public School Renewal Commission whose purpose was to propose changes and new provisions regarding the several components of K-12 public education in Montana, including but not limited to:

- the revenue available for public education;
- the structure of school district governance;
- the methods of funding public education;
- the role of state government in public education; and
- the role of the federal government in public education.

The Commission was composed of 28 members who represented the Governor's Office, the Office of Public Instruction, the Board of Public Education, legislative leadership, parents, school trustees, local governments, American Indians, teachers, agriculture, taxpayers, school administrators, school business officials, special needs students, labor, and small and large schools. The Commission met 12 times over the interim as it worked to formulate recommendations for providing a basic system of free, quality elementary and secondary schools. The Governor's Office and the Board of Public Education provided staffing for the Commission. HB 736 required the Commission to report its findings and recommendations to the Committee.

### **Findings and Recommendations**

1. The Commission agrees that the Montana Accreditation Standards are the foundation upon which a Montana quality education should be built.

2. The Commission recommends greater flexibility in the school calendar and time (days/hours) requirements. The Commission also supports encouraging local school districts to provide expanded learning opportunities addressing the unique learning needs of all students by flexing time and resources.
3. The Commission recommends greater flexibility in the school calendar and time (days/hours) requirements, without reducing the minimum aggregate hours of pupil instruction required by law, to allow local school districts to provide expanded professional development opportunities.
4. The Commission strongly recommends an intensive study of regional education service agencies as a key component in restructuring and renewing public education in Montana.
5. The Commission recommends that statutes be clarified to eliminate barriers to voluntary consolidation of school districts.
6. The Commission recommends that tax inequities among school districts be addressed and that any new funding formula avoid building in disincentives to consolidation.
7. The Commission supports statewide school district employee health insurance pooling with state incentives for participation.
8. The Commission supports legislation that would restore the position of a Gifted and Talented Specialist in the Office of Public Instruction with an appropriate budget for an advisory council, professional development, liaison activities with postsecondary teacher preparation programs, and other outreach services.
9. The Commission supports legislation that would begin to "phase in" increased state support for special education for programs such as services for "high cost" students with disabilities, preschool services, extended school year services, and professional development activities.
10. The Commission recommends that all school districts receive adequate funding to cover the costs of operating and maintaining quality public elementary and secondary schools.

11. The Commission recommends the following revenue and taxation revisions to support school funding:
  - a. implementation of a statewide equalization plan with an emphasis on homeowner equity and uniform property taxation;
  - b. funding the BASE budget using statewide equalization;
  - c. using equalized funding to fund the maximized budget;
  - d. using a balanced taxation approach that includes existing statewide taxes, such as property taxes, income taxes, and natural resource taxes, and also considers new revenue, such as a statewide general sales tax, to be used as a mechanism for equalization; and
  - e. using a balanced taxation approach that includes existing statewide taxes, such as property taxes, income taxes, and natural resource taxes, and also considers new revenue, such as a statewide general sales tax, to be used as a mechanism for funding quality public schools.
12. The Commission strongly supports the benefits of expanding kindergarten services to improve student learning and achievement and supports the Montana Legislature providing the statutory and budgetary flexibility to school districts so that they can offer additional kindergarten services to all students.
13. The Commission supports state-funded Indian Education for All curriculums and policies/rules developed through partnerships led by the Office of Public Instruction, Board of Public Education, and Legislature, including Indian educators, tribes, and others.
14. The Commission supports state-facilitated, public/private partnerships for locally based summer programs and extended-day school programs for identified students.
15. The Commission recognizes that adequate infrastructure, in the form of physical plant and equipment, is a key component of a quality educational system.<sup>4</sup>

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<sup>4</sup>Montana K-12 Public School Renewal Commission Findings and Recommendations, Report to the Education and Local Government Interim Committee, September 15, 2004.



### **Committee Activities**

On September 15, 2004, the Commission presented its finding and recommendations to the Committee. The Committee thanked the Commission and voted its support for all of the Commission's work. However, because this was the last meeting of the interim and the Committee did not have the time to synthesize the vast amount of information that the Commission had amassed for each of its recommendations, the Committee declined to approve a Committee bill implementing the findings and recommendations. Instead, the Committee encouraged individual legislators to submit bill draft requests.

The final report of the Commission will be published in December of 2004. More complete information about the work of the Commission is available on its website at [www.discoveringmontana.com/gov2/css/boards/renewal/default.asp](http://www.discoveringmontana.com/gov2/css/boards/renewal/default.asp).

# Chapter Four

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## Available Materials

The following materials relevant to the Education and Local Government Interim Committee and its three subcommittees are available from the Legislative Services Division (LSD) or on the LSD website at [www.leg.state.mt.us](http://www.leg.state.mt.us). Follow the "Committees" link or the "Interims" link to the Education and Local Government Committee.

### **Minutes of Meetings (exhibits included)**

#### Full Committee:

August 21, 2003

June 9, 2004

October 30, 2003

September 15, 2004

#### Postsecondary Education Policy and Budget Subcommittee:

December 10, 2003

May 19, 2004

January 20, 2004

July 7, 2004

March 24, 2004

#### K-12 Education Subcommittee:

October 30, 2003

January 9, 2004

May 27, 2004

#### Local Government Subcommittee:

October 30, 2003

June 8, 2004

January 9, 2004

September 14, 2004

April 2, 2004

## **Staff Reports and Memoranda**

*Approved Legislation Related to Land Use Planning and Regulation 2003 Montana Legislature*, May 2003, Mary Vandembosch, Legislative Services Division

*Local Government Legislation Approved by the 2003 Montana Legislature*, July 2003, Connie Erickson, Legislative Services Division

*Education and Local Government Interim Committee Proposed Work Plan for the 2003-2004 Interim*, July 2003, Connie Erickson, Legislative Services Division

*Study Plan House Joint Resolution No. 37*, October 2003, Leanne Kurtz, Legislative Services Division

*School Employee Health Insurance Proposal*, May 27, 2004, Connie Erickson, Legislative Services Division

*Report of the Special Panel on the University of Montana Athletic Deficit*, May 20, 2004, Office of the Commissioner of Higher Education

*Montana Board of Regents' Accountability Report on the Montana University System to the 58th Legislature*, January 16, 2003, Office of the Commissioner of Higher Education

*Six Action Items Designed to Implement Shared Leadership for a Stronger Montana Economy* (two reports), July 7, 2004, and July 12, 2004, Office of the Commissioner of Higher Education

*Montana K-12 Public School Renewal Commission Findings and Recommendations*, report to the Education and Local Government Interim Committee, September 15, 2004.





## **APPENDIX A**



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As of: June 9, 2004 (1:59pm)

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\*\*\*\* Bill No. \*\*\*\*

Introduced By \*\*\*\*\*

By Request of the \*\*\*\*\*

A Bill for an Act entitled: "An Act; amending sections 76-3-103, 76-3-501, 76-3-504, 76-3-601, 76-3-602, 76-3-603, 76-3-604, 76-3-605, 76-3-608, 76-3-609, and 76-3-620, MCA; and repealing section 76-3-505, MCA; and providing an immediate effective date; and providing an applicability date."

Be it enacted by the Legislature of the State of Montana:

**Section 1.** Section 76-3-103, MCA, is amended to read:

**"76-3-103. Definitions.** As used in this chapter, unless the context or subject matter clearly requires otherwise, the following definitions apply:

(1) "Certificate of survey" means a drawing of a field survey prepared by a registered surveyor for the purpose of disclosing facts pertaining to boundary locations.

(2) "Cluster development" means a subdivision with lots clustered in a group of five or more lots that is designed to concentrate building sites on smaller lots in order to reduce capital and maintenance costs for infrastructure through the use of concentrated public services and utilities, while allowing other lands to remain undeveloped.

(3) "Dedication" means the deliberate appropriation of land by an owner for any general and public use, reserving to the

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landowner no rights that are incompatible with the full exercise and enjoyment of the public use to which the property has been devoted.

(4) "Division of land" means the segregation of one or more parcels of land from a larger tract held in single or undivided ownership by transferring or contracting to transfer title to or possession of a portion of the tract or properly filing a certificate of survey or subdivision plat establishing the identity of the segregated parcels pursuant to this chapter. The conveyance of a tract of record or an entire parcel of land that was created by a previous division of land is not a division of land.

(5) "Examining land surveyor" means a registered land surveyor appointed by the governing body to review surveys and plats submitted for filing.

(6) "Final plat" means the final drawing of the subdivision and dedication required by this chapter to be prepared for filing for record with the county clerk and recorder and containing all elements and requirements set forth in this chapter and in regulations adopted pursuant to this chapter.

(7) "Governing body" means a board of county commissioners or the governing authority of a city or town organized pursuant to law.

(8) "Immediate family" means a spouse, children by blood or adoption, and parents.

(9) ~~"Irregularly shaped tract of land" means a parcel of land other than an aliquot part of the United States government~~



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~~survey section or a United States government lot, the boundaries or areas of which cannot be determined without a survey or trigonometric calculation.~~ "Minor subdivision" means a subdivision that creates five or fewer lots from a tract of record.

(10) "Planned unit development" means a land development project consisting of residential clusters, industrial parks, shopping centers, or office building parks that compose a planned mixture of land uses built in a prearranged relationship to each other and having open space and community facilities in common ownership or use.

(11) "Plat" means a graphical representation of a subdivision showing the division of land into lots, parcels, blocks, streets, alleys, and other divisions and dedications.

(12) "Preliminary plat" means a neat and scaled drawing of a proposed subdivision showing the layout of streets, alleys, lots, blocks, and other elements of a subdivision that furnish a basis for review by a governing body.

(13) ~~"Registered land surveyor" means a person licensed in conformance with Title 37, chapter 67, to practice surveying in the state of Montana.~~ "Public utility" has the same meaning as is provided in 69-3-101, except that for the purposes of this chapter, the term does include county or consolidated city and county water or sewer districts as defined in Title 7, chapter 12, parts 22 and 23.

~~(14) "Registered professional engineer" means a person licensed in conformance with Title 37, chapter 67, to practice~~

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~~engineering in the state of Montana.~~

~~(15)~~ (14) "Subdivider" means a person who causes land to be subdivided or who proposes a subdivision of land.

~~(16)~~ (15) "Subdivision" means a division of land or land so divided that it creates one or more parcels containing less than 160 acres that cannot be described as a one-quarter aliquot part of a United States government section, exclusive of public roadways, in order that the title to or possession of the parcels may be sold, rented, leased, or otherwise conveyed and includes any resubdivision and further includes a condominium or area, regardless of its size, that provides or will provide multiple space for recreational camping vehicles or mobile homes.

~~(17)~~ (16) (a) "Tract of record" means an individual parcel of land, irrespective of ownership, that can be identified by legal description, independent of any other parcel of land, using documents on file in the records of the county clerk and recorder's office.

(b) Each individual tract of record continues to be an individual parcel of land unless the owner of the parcel has joined it with other contiguous parcels by filing with the county clerk and recorder:

(i) an instrument of conveyance in which the aggregated parcels have been assigned a legal description that describes the resulting single parcel and in which the owner expressly declares the owner's intention that the tracts be merged; or

(ii) a certificate of survey or subdivision plat that shows that the boundaries of the original parcels have been expunged

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and depicts the boundaries of the larger aggregate parcel.

(c) An instrument of conveyance does not merge parcels of land under subsection ~~(17)~~(16)(b)(i) unless the instrument states, "This instrument is intended to merge individual parcels of land to form the aggregate parcel(s) described in this instrument" or a similar statement, in addition to the legal description of the aggregate parcels, clearly expressing the owner's intent to effect a merger of parcels."

{ Internal References to 76-3-103:

x76-4-127            x76-6-203            x76-7-203 }

**Section 2.** Section 76-3-501, MCA, is amended to read:

**"76-3-501. Local subdivision regulations.** ~~(1)~~ Before July 1, 1974, the governing body of every county, city, and town shall adopt and provide for the enforcement and administration of subdivision regulations reasonably providing for the orderly development of their jurisdictional areas; for the coordination of roads within subdivided land with other roads, both existing and planned; for the dedication of land for roadways and for public utility easements; for the improvement of roads; for the provision of adequate open spaces for travel, light, air, and recreation; for the provision of adequate transportation, water, and drainage; subject to the provisions of 76-3-511, for the regulation of sanitary facilities; for the avoidance or minimization of congestion; and for the avoidance of subdivision which would involve unnecessary environmental degradation and the avoidance of danger of injury to health, safety, or welfare by

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reason of natural hazard or the lack of water, drainage, access, transportation, or other public services or would necessitate an excessive expenditure of public funds for the supply of ~~such the~~ services.

~~(2) Review and approval or disapproval of a subdivision under this chapter may occur only under those regulations in effect at the time an application for approval of a preliminary plat or for an extension under 76-3-610 is submitted to the governing body."~~

{ Internal References to 76-3-501:

x76-3-503            x76-3-504            x76-3-511            x76-3-511  
x76-3-603 }

**Section 3.** Section 76-3-504, MCA, is amended to read:

**"76-3-504. Subdivision regulations -- contents.** (1) The subdivision regulations adopted under this chapter must, at a minimum:

(a) list the materials that must be included in a subdivision application for the application to be determined to contain the required elements for the purposes of the review required in 76-3-604(1);

(b) except as provided in 76-3-210, 76-3-509, or 76-3-609~~(3)~~, require the subdivider to submit to the governing body an environmental assessment as prescribed in 76-3-603;

~~(b)~~ (c) establish procedures consistent with this chapter for the submission and review of subdivision plats applications and amended applications;

~~(c)~~ (d) prescribe the form and contents of preliminary plats



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and the documents to accompany final plats;

~~(d)~~(e) provide for the identification of areas that, because of natural or human-caused hazards, are unsuitable for subdivision development and prohibit subdivisions in these areas unless the hazards can be eliminated or overcome by approved construction techniques;

~~(e)~~(f) prohibit subdivisions for building purposes in areas located within the floodway of a flood of 100-year frequency, as defined by Title 76, chapter 5, or determined to be subject to flooding by the governing body;

~~(f)~~(g) prescribe standards for:

- (i) the design and arrangement of lots, streets, and roads;
- (ii) grading and drainage;

(iii) subject to the provisions of 76-3-511, water supply and sewage and solid waste disposal that, ~~at a minimum~~, meet the regulations adopted by the department of environmental quality under 76-4-104;

- (iv) the location and installation of public utilities;

~~(g)~~(h) provide procedures for the administration of the park and open-space requirements of this chapter;

~~(h)~~(i) provide for the review of ~~preliminary plats~~ subdivision applications by affected public utilities and those agencies of local, state, and federal government identified during the pre-application consultation provided pursuant to subsection (p) or those having a substantial interest in a proposed subdivision. A utility or agency review may not delay the governing body's action on the ~~plat~~ application beyond the

time limits specified in this chapter, and the failure of any agency to complete a review of ~~a plat~~ an application may not be a basis for rejection of the ~~plat~~ application by the governing body.

~~(i)~~ (j) when a subdivision creates parcels with lot sizes averaging less than 5 acres, require the subdivider to:

(i) reserve all or a portion of the appropriation water rights owned by the owner of the land to be subdivided and transfer the water rights to a single entity for use by landowners within the subdivision who have a legal right to the water and reserve and sever any remaining surface water rights from the land;

(ii) if the land to be subdivided is subject to a contract or interest in a public or private entity formed to provide the use of a water right on the subdivision lots, establish a landowner's water use agreement administered through a single entity that specifies administration and the rights and responsibilities of landowners within the subdivision who have a legal right and access to the water; or

(iii) reserve and sever all surface water rights from the land;

~~(j)~~ (k)(i) except as provided in this subsection, require the subdivider to establish ditch easements in the subdivision that:

(A) are in locations of appropriate topographic characteristics and sufficient width, to allow the physical placement and unobstructed maintenance of open ditches or

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belowground pipelines for the delivery of water for irrigation to persons and lands legally entitled to the water under an appropriated water right or permit of an irrigation district or other private or public entity formed to provide for the use of the water right on the subdivision lots;

(B) are a sufficient distance from the centerline of the ditch to allow for construction, repair, maintenance, and inspection of the ditch; and

(C) prohibit the placement of structures or the planting of vegetation other than grass within the ditch easement without the written permission of the ditch owner.

(ii) Establishment of easements pursuant to this subsection (1) ~~(j)~~ (k) is not required if:

~~(i)~~ (A) the average lot size is 1 acre or less and the subdivider provides for disclosure, in a manner acceptable to the governing body, that adequately notifies potential buyers of lots that are classified as irrigated land and may continue to be assessed for irrigation water delivery even though the water may not be deliverable; or

~~(ii)~~ (B) the water rights are removed or the process has been initiated to remove the water rights from the subdivided land through an appropriate legal or administrative process and if the removal or intended removal is denoted on the preliminary plat. If removal of water rights is not complete upon filing of the final plat, the subdivider shall provide written notification to prospective buyers of the intent to remove the water right and shall document that intent, when applicable, in agreements and

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legal documents for related sales transactions.

~~(k)~~ (l) require the subdivider, unless otherwise provided for under separate written agreement or filed easement, to file and record ditch easements for unobstructed use and maintenance of existing water delivery ditches, pipelines, and facilities in the subdivision that are necessary to convey water through the subdivision to lands adjacent to or beyond the subdivision boundaries in quantities and in a manner that are consistent with historic and legal rights;

~~(l)~~ (m) require the subdivider to describe, dimension, and show utility easements in the subdivision on the final plat in their true and correct location. The utility easements must be of sufficient width to allow the physical placement and unobstructed maintenance of utility facilities for the provision of utility services within the subdivision;

(n) establish procedures describing how the governing body will address information presented to the governing body after the hearing held pursuant to 76-3-605 and when the governing body may schedule subsequent public hearings to consider new information. The procedures must be in accordance with the provisions of [section 9];

(o) establish criteria that the governing body or reviewing authority will use to determine whether a proposed method of disposition using the exemptions provided in 76-3-201 or 76-3-207 is an attempt to evade the requirements of this chapter. The regulations must provide for an appeals process to the governing body if the reviewing authority is not the governing body; and



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(p) establish a pre-application process that:

(i) allows a subdivider to meet with the agent or agency, other than the governing body, that is designated by the governing body to review subdivision applications prior to submitting the application;

(ii) requires, for informational purposes only, identification of the state laws, local regulations, and growth policy provisions, if a growth policy has been adopted, that may apply to the subdivision review process;

(iii) requires a list to be made available to the subdivider of the public utilities, those agencies of local, state, and federal government, and any other entities that will be contacted for comment on the subdivision application and the timeframes that the utilities, agencies, and other entities are given to respond. If the agent or agency designated by the governing body contacts a utility, agency, or other entity that was not included on the list originally made available to the subdivider, the agent or agency shall notify the subdivider of the contact and the timeframe for response;

(iv) requires that a pre-application meeting must take place no more than 30 days from the date that the agent or agency receives a written request for a pre-application meeting from the subdivider; and

(v) establishes a time limit after a pre-application meeting by which an application must be submitted as provided in 76-3-604.

(2) In order to accomplish the purposes described in

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76-3-501, the subdivision regulations adopted under 76-3-509 and this section may include provisions that are consistent with this section that promote cluster development.

(3) The governing body may establish deadlines for submittal of subdivision applications."

{ Internal References to 76-3-504:  
x76-3-511            x76-3-511 }

**Section 4.** Section 76-3-601, MCA, is amended to read:

**"76-3-601. Submission of application and preliminary plat for review.** (1) ~~Except when a plat is eligible for summary review pursuant to 76-3-505, the~~ Subject to the submittal deadlines established as provided in 76-3-504(3), the subdivider shall present to the governing body or to the agent or agency designated by the governing body the subdivision application, including the preliminary plat of the proposed subdivision, for local review. The preliminary plat must show all pertinent features of the proposed subdivision and all proposed improvements.

(2) (a) When the proposed subdivision lies within the boundaries of an incorporated city or town, the application and preliminary plat must be submitted to and approved by the city or town governing body.

(b) When the proposed subdivision is situated entirely in an unincorporated area, the application and preliminary plat must be submitted to and approved by the governing body of the county. However, if the proposed subdivision lies within 1 mile of a

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third-class city or town, within 2 miles of a second-class city, or within 3 miles of a first-class city, the county governing body shall submit the application and preliminary plat to the city or town governing body or its designated agent for review and comment. If the proposed subdivision is situated within a rural school district, as described in 20-9-615, the county governing body shall provide ~~an informational copy~~ summary of the information contained in the application and preliminary plat to school district trustees.

(c) If the proposed subdivision lies partly within an incorporated city or town, the ~~proposed~~ application and preliminary plat must be submitted to and approved by both the city or town and the county governing bodies.

(d) When a proposed subdivision is also proposed to be annexed to a municipality, the governing body of the municipality shall coordinate the subdivision review and annexation procedures to minimize duplication of hearings, reports, and other requirements whenever possible.

(3) The provisions of 76-3-604, 76-3-605, 76-3-608 through 76-3-610, and this section do not limit the authority of certain municipalities to regulate subdivisions beyond their corporate limits pursuant to 7-3-4444."

{Internal References to 76-3-601: None.}

**Section 5.** Section 76-3-602, MCA, is amended to read:

**"76-3-602. Fees.** The governing body may establish reasonable fees to be paid by the subdivider to defray the

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expense of reviewing subdivision ~~plats~~ applications."

{Internal References to 76-3-602: None.}

**Section 6.** Section 76-3-603, MCA, is amended to read:

**"76-3-603. Contents of environmental assessment.** When required, the environmental assessment must accompany the ~~preliminary plat~~ subdivision application and must include:

(1) for a major subdivision:

(a) a description of every body or stream of surface water that may be affected by the proposed subdivision, together with available ground water information, and a description of the topography, vegetation, and wildlife use within the area of the proposed subdivision;

(b) a summary of the probable impacts of the proposed subdivision based on the criteria described in 76-3-608; and

(c) a community impact report containing a statement of anticipated needs of the proposed subdivision for local services, including education and busing; roads and maintenance; water, sewage, and solid waste facilities; and fire and police protection; and

(d) additional relevant and reasonable information related to the applicable regulatory criteria adopted under 76-3-501 as may be required by the governing body;

(2) except as provided in 76-3-609~~(3)~~, for a minor subdivision, a summary of the probable impacts of the proposed subdivision based on the criteria described in 76-3-608."

{Internal References to 76-3-603:

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x76-3-504      x76-3-509 }

Section 7. Section 76-3-604, MCA, is amended to read:

"76-3-604. Review of preliminary plat subdivision application -- review for required elements and adequacy of information. (1)(a) ~~The governing body or its designated agent or~~ Within five working days of receipt of a subdivision application submitted in accordance with the deadlines established pursuant to 76-3-504(3) and receipt of the review fee submitted as provided in 76-3-601 and 76-3-602, the reviewing agency shall review the preliminary plat to determine whether it conforms to the provisions of this chapter and to rules prescribed or adopted pursuant to this chapter determine whether the application contains all of the elements listed as provided in 76-3-504(1)(a) and shall notify the subdivider or, with the subdivider's written permission, the subdivider's agent of the reviewing agency's determination.

(b) If the reviewing agency determines that elements are missing from the application, the reviewing agency shall identify those elements in its notification.

(2) (a) Within 15 working days after the reviewing agency notifies the subdivider or the subdivider's agent that the application contains all of the required elements as provided in subsection "(1), the reviewing agency shall determine whether the application and required elements contain adequate information to allow for the review of the proposed subdivision under the provisions of this chapter and shall notify the subdivider or,



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with the subdivider's written permission, the subdivider's agent of the reviewing agency's determination.

(b) If the reviewing agency determines that information in the application is inadequate to allow for review of the proposed subdivision, the reviewing agency shall identify the inadequate information in its notification.

(c) A determination that an application contains adequate information for review as provided in this subsection (2) does not ensure that the proposed subdivision will be approved or conditionally approved by the governing body and does not limit the ability of the reviewing agency to request additional information during the review process.

(3) The time limits provided in subsections (1) and (2) apply to each submittal of the application until:

(a) a determination is made that the application contains the required elements and adequate information; and

(b) the subdivider or the subdivider's agent is notified.

~~(2) The~~ (4) After the reviewing agency has notified the subdivider or the subdivider's agent that an application contains adequate information as provided in subsection (2), the governing body shall approve, conditionally approve, or disapprove the preliminary plat proposed subdivision within 60 working days, based on its determination of whether the application conforms to the provisions of this chapter and to the local regulations adopted pursuant to this chapter, of its presentation unless:

(a) the subdivider consents and the reviewing agency agree to an extension or suspension of the review period, not to exceed

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one year; or

(b) a subsequent public hearing is scheduled and held as provided in [section 9].

~~(3)(5)~~ If the governing body disapproves or conditionally approves the preliminary plat proposed subdivision, it shall ~~forward one copy of the plat to send~~ the subdivider accompanied by a letter ~~over~~ with the appropriate signature ~~stating the reason for disapproval or enumerating the conditions that must be met to ensure approval of the final plat that complies with the provisions of 76-3-620.~~

(6) (a) Review and approval or disapproval of a proposed subdivision under this chapter may occur only under those regulations in effect at the time a subdivision application is determined to contain adequate information for review as provided in subsection (2).

(b) If regulations change during the review periods provided in subsections (1) and (2), the determinations of whether the application contains the required elements and adequate information must be based on the new regulations."

{ Internal References to 76-3-604:  
a76-3-601        x76-3-620 }

**Section 8.** Section 76-3-605, MCA, is amended to read:

**"76-3-605. Hearing on preliminary plat subdivision application.** (1) Except as provided in ~~76-3-505~~ 76-3-609 and subject to the regulations adopted pursuant to 76-3-504(n) and [section 9], the governing body or its authorized agent or agency

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shall hold a at least one public hearing on the ~~preliminary plat~~ subdivision application and shall consider all relevant evidence relating to the public health, safety, and welfare, including the environmental assessment if required, to determine whether the ~~plat~~ proposed subdivision should be approved, conditionally approved, or disapproved by the governing body.

(2) When a proposed subdivision is also proposed to be annexed to a municipality, the governing body of the municipality shall hold joint hearings on the ~~preliminary plat~~ subdivision application and annexation whenever possible.

(3) Notice of the hearing must be given by publication in a newspaper of general circulation in the county not less than 15 days prior to the date of the hearing. The subdivider, each property owner of record, and each purchaser under contract for deed of property immediately adjoining the land included in the preliminary plat must also be notified of the hearing by registered or certified mail not less than 15 days prior to the date of the hearing.

(4) When a hearing is held by an agent or agency designated by the governing body, the agent or agency shall act in an advisory capacity and recommend to the governing body the approval, conditional approval, or disapproval of the ~~plat~~ proposed subdivision. This recommendation must be submitted to the governing body in writing not later than 10 working days after the public hearing."

{ Internal References to 76-3-605:  
x76-3-505            x76-3-601 }

NEW SECTION.    **Section 9.    Subsequent hearings --**

**consideration of new information -- requirements for regulations.**

The regulations adopted pursuant to 76-3-504(n) must comply with the provisions of this section.

(1) The governing body shall determine whether public comments or documents presented to the governing body following a hearing held pursuant to 76-3-605 constitute:

(a) information or analysis of information that was presented at the hearing held pursuant to 76-3-605 that the public has had a reasonable opportunity to examine and on which the public has had a reasonable opportunity to comment; or

(b) new information regarding a subdivision application that has never been submitted as evidence or considered by the governing body or its agent or agency at an earlier hearing during which the subdivision application was considered.

(2) If the governing body determines that the public comments or documents constitute the information described in subsection (1)(b), the governing body may:

(a) approve, conditionally approve, or disapprove the proposed subdivision without basing its decision on the new information; or

(b) schedule or direct its agent or agency to schedule a subsequent public hearing for consideration of only the new information that may have an impact on the findings and conclusions that the governing body will rely upon in making its decision on the proposed subdivision.

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(3) If a public hearing is held as provided in subsection

(2) (b) :

(a) the 60-working-day review period required in 76-3-604 is suspended and the new hearing must be noticed and held within 45 days of the governing body's determination to schedule a new hearing. After the new hearing, the 60-working-day time limit resumes; and

(b) the governing body may not consider any information regarding the subdivision application presented after the hearing when making its decision to approve, conditionally approve, or disapprove the proposed subdivision.

**Section 10.** Section 76-3-608, MCA, is amended to read:

**"76-3-608. Criteria for local government review.** (1) The basis for the governing body's decision to approve, conditionally approve, or disapprove a proposed subdivision is whether the subdivision application, preliminary plat, applicable environmental assessment, public hearing, planning board recommendations, or additional information demonstrates that development of the proposed subdivision meets the requirements of this chapter. A governing body may not deny approval of a proposed subdivision based solely on the subdivision's impacts on educational services.

(2) The governing body shall issue written findings of fact that weigh the criteria in subsection (3), as applicable.

(3) A subdivision proposal must undergo review for the following primary criteria:



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(a) except when the governing body has established an exemption pursuant to subsection ~~(7)~~ (6) of this section or except as provided in ~~76-3-505~~ and 76-3-509 or in 76-3-609(1) or (3), the ~~effect~~ impact on agriculture, agricultural water user facilities, local services, the natural environment, wildlife and wildlife habitat, and public health and safety;

(b) compliance with:

(i) the survey requirements provided for in part 4 of this chapter;

(ii) the local subdivision regulations provided for in part 5 of this chapter; and

(iii) the local subdivision review procedure provided for in this part;

(c) the provision of easements for the location and installation of any planned utilities; and

(d) the provision of legal and physical access to each parcel within the proposed subdivision and the required notation of that access on the applicable plat and any instrument of transfer concerning the parcel.

(4) The governing body may require the subdivider to design the proposed subdivision to reasonably minimize potentially significant adverse impacts identified through the review required under subsection (3). The governing body shall issue written findings to justify the reasonable mitigation required under this subsection (4).

(5) (a) In reviewing a proposed subdivision under subsection (3) and when requiring mitigation under subsection

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(4), a governing body may not unreasonably restrict a landowner's ability to develop land, but it is recognized that in some instances the unmitigated impacts of a proposed development may be unacceptable and will preclude approval of the plat subdivision.

(b) When requiring mitigation under subsection (4), a governing body shall consult with the subdivider and shall give due weight and consideration to the expressed preference of the subdivider.

~~(6) (a) When a minor subdivision is proposed in an area where a growth policy has been adopted pursuant to chapter 1 and the proposed subdivision will comply with the growth policy, the subdivision is exempt from the review criteria contained in subsection (3) (a) but is subject to applicable zoning regulations.~~

~~(b) In order for a growth policy to serve as the basis for the exemption provided by this subsection (6), the growth policy must meet the requirements of 76-1-601.~~

~~(7)~~ (6) The governing body may exempt proposed subdivisions that are entirely within the boundaries of designated geographic areas from the review criteria in subsection (3) (a) if all of the following requirements have been met:

(a) the governing body has adopted a growth policy pursuant to chapter 1 that:

(i) addresses the criteria in subsection (3) (a);

(ii) evaluates the effect of subdivision on the criteria in subsection (3) (a);

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(iii) describes zoning regulations that will be implemented to address the criteria in subsection (3)(a); and

(iv) identifies one or more geographic areas where the governing body intends to authorize an exemption from review of the criteria in subsection (3)(a); and

(b) the governing body has adopted zoning regulations pursuant to chapter 2, part 2 or 3, that:

(i) apply to the entire area subject to the exemption; and

(ii) address the criteria in subsection (3)(a), as described in the growth policy."

{ Internal References to 76-3-608:

76-1-601	76-1-601	76-1-601	76-1-601
76-1-601	76-1-601	76-1-601	76-3-505
76-3-509	76-3-601*	76-3-603	76-3-603 }

**Section 11.** Section 76-3-609, MCA, is amended to read:

**"76-3-609. Review procedure for minor subdivisions --  
determination of adequacy of application -- governing body may  
adopt regulations.** ~~Subdivisions containing five or fewer parcels  
in which proper access to all lots is provided and in which there  
is not any land to be dedicated to the public for parks or  
playgrounds are to be reviewed as follows: Minor subdivisions  
must be reviewed as provided in this section and subject to the  
applicable local regulations adopted pursuant to 76-3-504.~~

(1) When legal and physical access to all lots is provided,  
the first minor subdivision from a tract of record that existed  
or was legally created on or after April 2, 1973 from which no  
subdivision has been approved under this chapter or from which no

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more than five parcels have been created under 76-3-201 or 76-3-207 must be reviewed as follows:

(a) The Except as provided in subsection (1)(b), the governing body shall approve, conditionally approve, or disapprove the first minor subdivision from a tract of record within 35 working days of the submission of the a determination by the reviewing agency that the application contains required elements and adequate information for review. The determination and notification to the subdivider must be made in the same manner as is provided in 76-3-604(1) through (3).

(b) The subdivider and the reviewing agency may agree to an extension or suspension of the review period, not to exceed one year.

(c) Except as provided in (1)(d)(iii), an application must include a summary of the probable impacts of the proposed subdivision based on the criteria described in 76-3-608.

~~(2) The governing body shall state in writing the conditions that must be met if the subdivision is conditionally approved or what local regulations would not be met by the subdivision if it disapproves the subdivision.~~

~~—— (3) The requirements for holding a public hearing and preparing an environmental assessment do not apply to the first minor subdivision created from a tract of record.~~

~~—— (4) Subsequent subdivisions from a tract of record must be reviewed under 76-3-505 and regulations adopted pursuant to that section.~~

(d) The following requirements do not apply to the first

minor subdivision created from a tract of record that existed or was legally created on or after April 2, 1973 from which no subdivision has been approved under this chapter or from which no more than five parcels have been created under 76-3-201 or 76-3-207:

(i) the requirement to prepare an environmental assessment;

(ii) the requirement to hold a hearing on the subdivision application pursuant to 76-3-605; and

(iii) the requirement to review the subdivision for the criteria contained in 76-3-608(3)(a) if the minor subdivision is proposed within a jurisdictional area that has adopted zoning regulations that address the criteria in 76-3-608(3)(a).

(e) The governing body may adopt regulations that establish requirements for the expedited review of the first minor subdivision from a tract of record. The following apply to a proposed subdivision reviewed under the regulations:

(i) section 76-3-608(3); and

(ii) the provisions of Title 76, chapter 4, part 1, whenever approval is required by those provisions.

(2) Except as provided in subsection (3), subsequent minor subdivisions from a tract of record that existed or was legally created on or after April 2, 1973 from which no subdivision has been approved under this chapter or from which no more than five parcels have been created under 76-3-201 or 76-3-207 must be reviewed as provided in 76-3-601 through 76-3-605, 76-3-608, 76-3-610 through 76-3-614 and 76-3-620.

(3) The governing body may adopt subdivision regulations



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that establish requirements for review of subsequent minor subdivisions that meet or exceed the requirements that apply to the first minor subdivision, as provided in subsection (1) and this chapter.

(4) Review and approval or disapproval of a subdivision under this chapter may occur only under those regulations in effect at the time an application is determined to contain adequate information for review as provided in subsection (1)(a)."

{ Internal References to 76-3-609:

76-3-504

76-3-601\*

76-3-603

76-3-620 }

**Section 12.** Section 76-3-620, MCA, is amended to read:

**"76-3-620. Review requirements -- written statement.** In addition to the requirements of 76-3-604 and 76-3-609, a governing body may not deny or condition a subdivision approval under this part unless it provides a any decision by the governing body on a proposed subdivision must be based upon and accompanied by a written statement to the applicant detailing the circumstances of the subdivision denial or condition imposition. The statement must include:

~~—— (1) the reason for the denial or condition imposition;~~  
~~—— (2) the evidence that justifies the denial or condition imposition; and~~  
~~—— (3) information regarding the appeal process for the denial or condition imposition that:~~

(1) includes information regarding the appeal process for

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the denial or condition imposition;

(2) identifies the regulations and statutes that are relevant to the decision and explains how they contributed to the decision;

(3) provides the facts and conclusions that the governing body relied upon in making its decision that are based on relevant issues raised through documents, testimony, and other materials submitted during review of the proposed subdivision;

(4) identifies where in the public record the items listed in subsection (3) are located; and

(5) provides the conditions that may apply to the subdivision approval and the conditions that must be satisfied before the final plat may be approved."

{Internal References to 76-3-620: None.}

NEW SECTION. **Section 13. {standard} Repealer.** Section 76-3-505, MCA, is repealed.

{Internal References to 76-3-505: a76-3-601 a76-3-605 a76-3-608  
a76-3-609 }

NEW SECTION. **Section 14. {standard} Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 15. Applicability.** [This act] applies to subdivision applications submitted on or after [the effective date of this act].

- END -

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{ Name : Leanne M. Kurtz  
Title : Research Analyst  
Agency: Legislative Services Division  
Phone : 444-3064  
E-Mail : lekurtz@state.mt.us }

\*\*\*\* Bill No. \*\*\*\*

Introduced By \*\*\*\*\*

By Request of the \*\*\*\*\*

A Bill for an Act entitled: "An Act establishing a K-12 statewide health insurance program; and providing an immediate effective date."

Be it enacted by the Legislature of the State of Montana:

NEW SECTION.    **Section 1. Purpose.** The purpose of [sections 1 through 7] is to:

(1) create a statewide health insurance program for K-12 public schools and educational cooperatives in which employers elect participation in the program and provide employees who are regularly employed for 30 or more hours a week during the school year or employed for fewer hours as specified in a collective bargaining agreement or by employer policy in a nonbargaining school district or education cooperative with access to core benefits consisting of group hospitalization, health, medical, surgical, and pharmaceutical insurance benefits made available on a statewide basis;

(2) provide a \$200 incentive credit each month for every eligible employee to be used as a credit against the premium charged by the K-12 SHIP for enrollment by the employee in a health benefit plan;

(3) offer vision, dental, disability, life insurance, and

other related group benefits for members and their dependents through the K-12 SHIP in an efficient and cost effective manner, at the employer's and member's election as specified in a collective bargaining agreement or by employer policy in a nonbargaining school district;

(4) mitigate and eliminate previously experienced erratic annual health care insurance premium increases for members and employers in the K-12 SHIP by spreading health care cost experience over a larger and more stable statewide public school risk group, while reducing administrative expenses associated with small health insurance groups;

(5) provide members of the K-12 SHIP with access to health insurance coverage and provide equitable access to affordable health care;

(6) effectively allow employers and members, through the K-12 SHIP board, to negotiate medical cost containment, quality assurances, and managed care measures with health care providers, that will partially insulate school district budgets and members' income from escalating health care costs; and

(7) encourage and facilitate delivery of health care services in rural areas of the state for K-12 SHIP members and for rural communities generally.

NEW SECTION.    **Section 2. Definitions.** As used in [sections 1 through 7], the following definitions apply:

(1) "Basic plan" means a health benefit plan adopted by the board that provides core benefits for each member and the



member's designated dependents and that provides lower premiums and higher member cost sharing than under the standard plan or the preferred plan. The basic plan premium for an individual employee-only member may not exceed the amount of the state incentive credit provided for in [section 3].

(2) "Board" means the K-12 SHIP board established in [section 5].

(3) "Composite-rate premium" means the average per-enrollee premium cost for local employers and members who would otherwise be enrolled in the core benefits or core and other supplemental group benefits plans pursuant to the tiered-rate premium structure established by the board, but where, by collective bargaining or by local employer policy regarding employees not represented by collective bargaining, the employer has chosen to select a specified core or core and other group benefit plan for enrollment by local members on a composite premium rate structure.

(4) "Core benefits" means group hospitalization, health, medical, surgical insurance benefits, as well as pharmaceutical benefits offered in all K-12 SHIP benefit plans other than the basic plan offered by the K-12 SHIP for members and their designated dependents on a statewide basis pursuant to [sections 1 through 7].

(5) "Department" means the department of administration provided for in 2-15-1001.

(6) "Dependent" means:

(a) a lawful spouse or declared common law spouse;

(b) a child under the age of 25 who is unmarried, not employed with an organization for which the dependent is entitled to group insurance, and not in full-time active military service; or

(c) a child of any age who is disabled and dependent upon the parent as provided in 33-22-506 and 33-30-1003;

(7) "Employee" means a person employed by a public school elementary or high school district, as defined in 20-6-101, a K-12 school district, as defined in 20-6-701, or an education cooperative, as described in 20-7-451, who is regularly employed for 30 or more hours a week during the school year or employed for fewer hours as specified in a collective bargaining agreement or by school district or education cooperative policy in a nonbargaining school district or education cooperative. The term does not include an employee who is enrolled in a health benefit plan provided by a multiple employer welfare arrangement or a retiree or a school board trustee who is a member of the K-12 statewide health insurance program.

(8) "Employer" means the governing body of a public elementary or high school district, as defined in 20-6-101, a K-12 school district, as defined in 20-6-701, or an education cooperative, as described in 20-7-451.

(9) "Group benefits" means core benefits and other supplemental group benefits, including but not limited to, dental, vision, disability, accidental death and dismemberment, life, and other similar and related benefits offered to members and dependents by the K-12 SHIP pursuant to [sections 1 through

7].

(10) "K-12 SHIP" means the K-12 statewide health insurance program established pursuant to [sections 1 through 7].

(11) "Managed care plan" means a plan provided by a health care provider network that is subject to review and regulation as a health maintenance organization pursuant to Title 33, chapter 31, and the provides health care or other benefits on a local, regional, or statewide basis.

(12) "MEA-MFT" means the merged organizations formerly known as the Montana education association and the Montana federation of teachers.

(13) "Medicare supplement plan" means a plan adopted by the board that offers core benefits for members and their designated dependents who are enrolled in medicare and that supplements benefits offered under the medicare program. The term may include a medicare managed care plan.

(14) "Multiple employer welfare arrangement" means a national health and benefits program, as defined by section 3(40) of the Employment Retirement Income Security Act of 1974, that is sponsored by a national union or association and that provides health insurance benefits for local employers and specified employee groups on the effective date of this act pursuant to a collective bargaining agreement.

(15) "Preferred plan" means a plan adopted by the board that provides core benefits and pharmaceutical benefits for each member and the member's designated dependents and that provides a higher premium and lower member cost sharing than occurring under

the standard plan.

(16) "Retiree" means:

(a) an employee who has terminated employment with an employer and who, at the time of termination, was continuously employed for a period of 10 or more school years, was 55 years of age or older, and was enrolled in the K-12 SHIP and at the time of termination of employment elected continued enrollment in the K-12 SHIP;

(b) an employee who has terminated employment with an employer and who, at the time of termination was enrolled in the K-12 SHIP and was eligible for normal retirement pursuant to law or rules of the public employees retirement system or the teachers' retirement system and at the time of termination of employment elected continued enrollment in the K-12 SHIP;

(c) an employee or trustee who was enrolled prior to July 1, 2006, as a retiree under terms of the school district or education cooperative health benefit plan and who enrolls in the K-12 statewide health insurance program if the employer elects to participate in the K-12 SHIP; or

(d) a trustee who terminated board trusteeship with a school district and who, at the time of termination, was continuously enrolled in the K-12 SHIP and at the time of termination elected continued enrollment in the K-12 SHIP.

(17) "Standard plan" means a plan adopted by the board that provides core benefits and pharmaceutical benefits for each member and the member's designated dependents and that provides a higher premium and lower member cost sharing than occurring under

the basic plan and is actuarially equivalent in value to the state of Montana's traditional health benefit plan as existing on July 1, 2003.

(18) "Tiered-rate premium" means the premium cost established by the board that is necessary to fund members enrolled as single, single and dependents, two-party, family, and other enrollment categories established by the board.

(19) "Trustee" means a member of a public school board who, by a local board policy, is eligible to participate and has elected to enroll in the K-12 SHIP.

NEW SECTION. **Section 3. Incentive credit -- voluntary employer participation -- window of eligibility -- impact on collective bargaining.** (1)(a) There is a monthly incentive credit of \$200 for every employee enrolled in the K-12 SHIP. Every school district and education cooperative in the state is entitled to receive the incentive credit for its employees.

(b)(i) The incentive credit must be applied by the board to the premiums paid by an employer and an employee enrolled in the K-12 SHIP. The incentive credit must be applied for any month:

(A) in which an employee worked in a covered position for a majority of the working days in the month; and

(B) with a regularly scheduled school holiday or break, so long as the employee was expected to work or had worked at least 1080 hours or more during the school fiscal year or otherwise qualifies for the K-12 SHIP as a result of a collective bargaining agreement or school district or education cooperative



policy.

(ii) In the case of a change in employment by an employee covered by the K-12 SHIP, the incentive credit must be adjusted on a monthly basis with a full monthly credit provided for any month in which the employee worked in a covered position for a majority of the working days.

(c) The incentive credit must be increased annually by the rate of medical cost inflation, as determined by the U.S. department of labor, on December 31 of each calendar year.

(2) Employer participation in the K-12 SHIP is voluntary. Employers who do not participate may not receive the incentive credit for their employees. An employer can elect to participate in the K-12 SHIP and receive the incentive credit by a simple majority vote. The employer must file a written notice of election with the board on or before January 15, 2006, or anytime thereafter as allowed by the board. The notice must include the number of employees eligible to participate in the K-12 SHIP.

(3) The election to participate in the K-12 SHIP is solely a decision of the employer. The employer's elective participation decision is irrevocable, final, and continuing with respect to all employees qualified to enroll in the K-12 SHIP.

(4) (a) The employer's election to participate in the K-12 SHIP is specifically exempt from any claim of unfair labor practice, maintenance of benefits' clauses of collective bargaining agreements, or other collective bargaining violations respecting the Montana Public Employee Collective Bargaining Act provided for in Title 39, chapter 31. The incentive credit is

recognized as the employer contribution toward the premium obligated under the terms of a collective bargaining agreement.

(b) Employer and employee organization bargaining and collective bargaining agreement obligations under Title 39 with respect to the level of employer contribution toward premium payment, enrollment thresholds, choice of premium structure based on the tiered-rate, composite-rate, or other rates provided for by the board, the impact of the incentive credit, and other matters not specifically exempted in this subsection from coverage under Title 39, chapter 31, are maintained.

NEW SECTION.    **Section 4.   K-12 statewide health insurance program -- enrollment -- collective bargaining of employer contributions.** (1) On or after [the effective date of the act], the board shall adopt rules for:

- (a) defining the K-12 SHIP;
- (b) establishing the provisions of the core and other group benefit plans;
- (c) providing for employer participation election;
- (d) providing for member enrollment;
- (e) establishing electronic data collection and transfer systems; and
- (f) providing for employer and member educational and information systems.

(2) By December 1, 2005, the board shall adopt and maintain:

- (a) a basic plan, a standard plan, and a preferred plan, two or more locally available managed care plans, and one or more

medicare supplement plans providing for health insurance benefits for each member and the member's designated dependents. The plans adopted by the board must be operating and available to all employers and members by no later than July 1, 2006.

(b) an actuarially sound schedule of tiered-rate and composite-rate premiums for each adopted plan that offers the option of selecting a premium payment method to all employers and members by collective bargaining or to nonbargaining members by local employer policy. The board shall, by December 1, 2005, and annually thereafter by no later than March 1, notify each school district, education cooperative, and the department of the adoption of the premium structure adopted for each plan for the subsequent fiscal year.

(3) By June 1, 2006, and by each succeeding June 1, employers shall notify the board of the employee member's selection of the basic plan, standard plan, preferred plan, or managed care plan and of the employer's selection of the premium payment method for all employee, retiree, and trustee members as determined by a collective bargaining agreement or employer policy for nonbargaining school districts or education cooperatives.

(4) By June 1, 2006, and by each succeeding June 1, retiree and trustee members of the K-12 SHIP shall notify the board of the members' selection of the basic plan, standard plan, preferred plan, managed care plan, or medicare supplement plan.

(5) By the later of either July 1, 2006, or upon the expiration of a collective bargaining agreement that is in effect

prior to [the effective date of this act] and extends through the 2007 contract year and that includes provisions that specifically restrict or are otherwise in conflict with the provisions of [sections 1 through 7], an employer shall:

(a) enroll each eligible employee in the K-12 SHIP and provide core benefits under the basic plan, standard plan, preferred plan, or managed care plan as elected by the employee; and

(b) enroll each retiree and trustee who is eligible under [sections 1 through 11] and who elects benefits coverage under the basic plan, standard plan, preferred plan, managed care plan, or medicare supplement plan.

(6) An eligible employee may waive enrollment and coverage in the K-12 SHIP by submitting a signed statement declining enrollment in the plan and acknowledging relinquishment of enrollment rights until the second general enrollment period as established by the board following the employee's signed statement declining enrollment.

(7) An eligible retiree or eligible trustee may waive enrollment and coverage in the K-12 SHIP by submitting a signed statement declining enrollment in the plan and acknowledging complete, final, and irrevocable relinquishment of enrollment rights in the K-12 SHIP.

(8) Except as provided in subsection (11) and unless otherwise prohibited by law, an employer shall, by July 1, 2006, and monthly after that date, transfer to the board from any budgeted fund or nonbudgeted fund, as defined in 20-9-201, the

premium amount in excess of \$200 determined by the board to be necessary to:

(a) insure and provide core benefits on behalf of each employee enrolled under the basic plan, standard plan, preferred plan, or managed care plan selected by the employee;

(b) repay the board of investment loans provided for under [section 7]; and

(c) implement the plan, pay administration costs, and establish reserves.

(9) (a) For an employee whose employment is covered by a collective bargaining agreement under Title 39, chapter 31, an employer's selection of tiered-rate or composite-rate premium structure for core benefits premium payments and other group benefits pursuant to this section and an employer's and employee's contributions for employee-selected core benefits and other group benefits made pursuant to subsection (2) or (3) must be determined by collective bargaining between the employer and the exclusive representative of the bargaining unit.

(b) For an employee whose employment is not covered by a collective bargaining agreement pursuant to Title 39, chapter 31, an employer's selection of tiered-rate or composite-rate premium structure for core benefits premium payments and other benefits pursuant to this section and an employer's and employee's contributions for employee-selected core benefits and other group benefits made pursuant to subsection (2) or (3) must be determined by employer policy.

(10) A trustee or a retiree may, at the time of retirement



and at the trustee's or retiree's expense, elect to be enrolled in the K-12 statewide health insurance program and receive health benefits under the basic plan, standard plan, preferred plan, or managed care plan as offered by the employer or may, if eligible, enroll in the medicare supplement plan.

(11) If by a collective bargaining agreement, the employer agrees to make payments for health and related insurance benefits for retired school personnel, the employer shall continue to provide benefits and make payments to the board pursuant to the terms of the collective bargaining agreement.

(12) The board shall deposit all reserve funds, premiums paid to the K-12 SHIP, and unused incentive credits and the money deposited is statutorily appropriated, as provided in 17-7-503, to the department to be expended for claims, payment of administrative costs, and loan repayments under the K-12 SHIP and to maintain actuarially sound reserves considered necessary for the K-12 SHIP.

(13) A local district with a self-funded health benefit plan or employee health group plan holding rate stabilization or other funds is required to use these funds of the health benefit plan to pay claims and other liabilities of the district's health benefit plan. Upon enrollment in the K-12 SHIP, the remaining reserves must be maintained by the district under the provisions of 20-3-331 and must be used to pay for employee benefit costs as determined by a collective bargaining agreement, employer policy, or as required by applicable state or federal law.

(14) The provisions of [sections 1 through 7] may not be

construed to require a specific contribution by either an employer or an employee toward the cost of core benefits and other benefits provided in [sections 1 through 7].

(15) Complying with the requirements of [sections 1 through 7] may not be interpreted as a refusal to bargain in good faith with an exclusive representative in violation of 39-31-401(5).

NEW SECTION.    **Section 5. K-12 statewide health insurance program board -- composition -- appointment -- compensation.** (1)  
There is a K-12 SHIP board.

(2) The board consists of nine members appointed to 5-year staggered terms by the governor. The members of the board must be appointed as follows:

(a) four members who are enrolled in the K-12 SHIP, including at least three members from a first-class district and at least one classified employee, from a list of at least eight nominees submitted by MEA-MFT;

(b) two representatives of public school administrators, including at least one from a first-class district, appointed from a list of at least four nominees submitted jointly by the school administrators of Montana and the Montana association of county superintendents of schools;

(c) two representatives of public school board trustees, including at least one representative from a first-class district, appointed from a list of at least four nominees submitted jointly by the Montana school boards association, Montana rural education association, and the Montana association

of school business officials; and

(d) one retiree who is a member of the K-12 SHIP.

(3) (a) Except as provided in subsection (3) (b), when a vacancy occurs the governor shall notify the organization or organizations authorized to submit nominations pursuant to subsection (2). Within 30 days of receiving notification, the authorized organization or organizations shall submit a list of nominees to the governor. If the organization or organizations fail to submit a list within 30 days, the governor may appoint any person meeting the requirements of the vacancy to fill the position.

(b) When a vacancy occurs in the retiree position, the governor shall appoint any person meeting the requirements of the vacancy to fill the position.

(4) Nominating organizations, when preparing nomination lists, and the governor, when making appointments, shall give consideration to those nominees with demonstrated experience in the operation, supervision, and administration of school health benefit plans.

(5) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121, except that the provisions of 2-15-121(2) (d) do not apply.

(6) Members of the board must be compensated and receive travel expenses in the same manner as members of quasi-judicial boards under 2-15-124(7).

NEW SECTION.    **Section 6. Powers and duties of board. (1)**

The board shall:

(a) act as fiduciary for the K-12 SHIP and beneficiaries of the program;

(b) prepare requests for proposals and contract for claims payment, actuarial, and other specialized professional services;

(c) meet at least six times annually and review monthly enrollment, claims, claims payment, and fund financial status information and conduct financial status reviews;

(d) comply with the provisions of [sections 1 through 37] and [sections 8 through 27];

(e) determine the preferred methods for providing K-12 SHIP education and information services to members and employers, provide effective and cost-efficient administration of the K-12 SHIP, and establish procedures for payroll office assistance, enrollment and data transfer processing, claims processing, and member claims assistance;

(f) pursuant to the applicable provisions of Title 33 and fiduciary duty, determine whether the K-12 SHIP requires reinsurance or stop-loss protections, and if so, determine the most appropriate specific or aggregate reinsurance levels;

(g) undergo annual compliance and financial audits as required by applicable provisions of law and regulation pursuant to Title 33 and the insurance department;

(h) establish the basic, standard, and preferred plans, a network of managed health care plans, and medicare health supplement plans;

(i) closely monitor the performance of each health benefit

plan and annually adjust plan benefits as determined prudent and necessary;

(j) establish supplemental or rider dental, vision, life, long-term disability, and other statewide insurance plans to be made available to districts for voluntary participation;

(k) annually set tiered-rate and composite-rate premiums for eligible member enrollment in the health benefit plans;

(l) ensure that the individual premium for the basic plan does not exceed the amount of the incentive credit provided for in [section 3] and continue to offer access to the basic plan;

(m) repay the start-up loan and any draw on the line-of-credit provided for in [section 7] from the incentive credit provided for in [section 3] and health benefit plan premiums;

(n) establish, review, and revise provisions of core benefit plans, local managed care plans, and local network provider agreements and establish and review provisions of other group benefit plans offered by the board;

(o) annually determine benefit provisions and set premiums needed to fund core benefits, pay administrative costs, provide reserves, and set premiums necessary for all other group benefit plans offered by the board;

(p) ensure that the administrative costs of the K-12 SHIP do not exceed 7% of the premium charged for tiered-rate or composite-rate plan coverages;

(q) conduct claims and any financial and operational reviews that are necessary to properly monitor the performance of the group benefit plan vendors;



(r) work with the office of public instruction, the teachers retirement system, and the public employee retirement system to develop a database of school personnel information; and

(s) adopt rules to implement the provisions of [sections 1 through 7], including but not limited to rules to:

(i) determine timely and automated procedures for monthly enrollment of employee, retiree, and trustee members, bid specifications, claim forms and procedures, claims distribution, appeal procedures, and the general administration and operation of the K-12 statewide health insurance program;

(ii) authorize the board to establish default selection and rate preference election for circumstances when an employer does not notify the board of locally bargained or otherwise determined choices by June 1 of each year;

(iii) coordinate benefits with other health plans, participate in cooperative purchasing as provided in 2-18-711, and provide for dual enrollment of spouses enrolled in a K-12 SHIP health benefit plan, the state employee group benefits plan, or the Montana university system health plans; and

(iv) provide for the re-enrollment of an employee who waived coverage during the initial enrollment period.

(2) The board shall hire and manage its own personnel, including an administrative accountant responsible for direct entry and access to the state budgeting and accounting database, and may, by contract, hire personnel for all administrative services, including but not limited to:

(a) clerical and plan oversight and supervision services

required by the board;

(b) with regard to enrollment of members in the health benefit plans, coordinating enrollment with employer staff and payroll systems, preparing descriptive materials, providing member and employer information concerning plan benefits and enrollment and claims processing procedures, and providing members with assistance as needed for claims submission and processing;

(c) claims processing and record keeping, full financial accounting, and reporting to the board;

(d) actuarial and plan design services, as needed;

(e) (i) preparation of an annual report that:

(A) describes enrollment trends within the K-12 SHIP, benefit provisions and premium structure of the health benefit plans, and administrative experience relating to the plans;

(B) details historical and projected program costs and the status of reserve funds; and

(C) makes recommendations, if any, for changes in the existing K-12 SHIP, health benefit plans, premium structures, or related matters.

(ii) The annual report must be submitted to the board of public education.

(f) preparation of informational and educational services through local employers for members regarding the K-12 SHIP and health benefit plans;

(g) providing assistance and training to public school benefits and payroll administrators and to members regarding

enrollment and premium payment procedures associated with the K-12 SHIP and health benefit plans; and

(h) providing assistance for members and employers to establish and maintain locally available wellness programs.

(3) The board shall include as part of the costs of the K-12 SHIP the costs of the board in administering health benefits plans and claims processing, repayment of board of investment implementation and reserve loans as provided in [section 7], and other benefit consulting, actuarial, and auditing costs.

(4) The board is subject to the Montana Procurement Act in Title 18, chapter 4.

NEW SECTION.    **Section 7. Board of investment loan and line of credit -- limitations on use.** (1) If considered prudent under the provisions of 17-6-201, the board of investments may prior to July 1, 2005, provide to the K-12 SHIP board a loan in the amount of \$2 million for the purpose of implementing the K-12 SHIP and health benefit plans.

(2) The board of investments may on July 1, 2005, authorize and provide to the K-12 SHIP board a line of credit in the amount of \$24 million to be available on or before July 1, 2006, to establish initial reserves for the K-12 SHIP health benefit plans.

(3) The loan and line of credit provided for in subsections (1) and (2) must be issued pursuant to the Municipal Finance Consolidation Act of 1983 authorized in Title 17, chapter 5, part 16, and the repayment term established for a loan may not exceed

a period of 10 years.

(4) For any loan or line of credit provided under this section, the K-12 SHIP board shall establish and maintain a specific loan repayment account and shall repay the loan or line of credit from premiums charged for core and other group benefits.

(5) The loan authorized under subsection (1) and the line of credit authorized under subsection (2) may not be used to pay any claims incurred, but not paid, prior to July 1, 2006, or for any other liabilities incurred prior to July 1, 2006.

**NEW SECTION. Section 8. Definition.** As used in [sections 8 through 27], 33-1-102, and 33-1-201:

(1) "Board" means the K-12 statewide health insurance program board established in [section 5].

(2) "Health services" has the meaning provided in 33-30-101.

(3) "K-12 SHIP" means the K-12 statewide health insurance program established pursuant to [sections 1 through 7].

(4) "Health benefit plans" means the basic plan, preferred plan, and standard plan as defined in [section 2].

(5) "Membership contract" means any agreement, contract, or certificate by which the K-12 SHIP describes the health services or benefits provided to its members or beneficiaries.

**NEW SECTION. Section 9. Application of this chapter -- construction of other related laws.** (1) The K-12 SHIP is subject to the provisions of [sections 8 through 27]. In addition to the

provisions contained in [sections 8 through 27], other chapters and provisions of Title 33 apply to the K-12 SHIP as follows: 33-33-307; 33-3-308; 33-3-431; 33-3-701 through 33-3-704; Title 33, chapter 2, part 13; Title 33, chapters 1, 15, 18, and 19; 33-22-114; 33-22-129; 33-22-133 through 33-22-135; 33-22-140 through 33-22-143; 33-22-243; Title 33, chapter 22, part 5, except 33-22-512 and 33-22-522; 33-22-706; and Title 33, chapter 22, parts 15 and 19. These other statutes are applicable to the K-12 SHIP in the same manner that they are applicable to a domestic health service corporation.

(2) A law of this state other than the provisions of [sections 8 through 27] applicable to the K-12 SHIP must be construed in accordance with the fundamental nature of the K-12 SHIP, and in the event of a conflict, the provisions of [sections 8 through 27] prevail.

**NEW SECTION.**    **Section 10. Examination of the K-12 SHIP.** (1) If the commissioner believes the K-12 SHIP is unable or potentially unable to fulfill its contractual obligations to its members, the commissioner may conduct an examination of that program.

(2) In addition to the examination authorized in subsection (1), at least once every 4 years, the commissioner shall conduct an examination of the K-12 SHIP to determine if the program is fulfilling its contractual obligations by prompt satisfaction of claims at the highest monetary level consistent with reasonable dues or fees, and that the program's management exercises



appropriate fiscal controls, operations, and personnel policies to assure that efficient and economic administration restrains overhead costs for the benefit of its members.

(3) When the K-12 SHIP is examined, its officers and employees shall produce and make available to the commissioner or the commissioner's examiners the accounts, records, documents, files, information, assets, and matters in its possession or control relating to the subject of the examination.

(4) The commissioner or the commissioner's examiner shall make a verified report of the examination.

(5) The report must comprise only facts appearing from the books, papers, records, or documents of the program examined or ascertained from the testimony, under oath, of individuals concerning the program's affairs and conclusions and recommendations as warranted by those facts.

(6) The commissioner shall furnish a copy of the proposed report to the board not less than 20 days prior to its filing in the commissioner's office. If the board requests a hearing, in writing, the commissioner shall grant one with respect to the report and may not file the report until after the hearing and after modifications, if any, the commissioner considers proper.

(7) The K-12 SHIP shall pay for each examination conducted pursuant to subsections (1) and (2) in accordance with 33-1-413.

NEW SECTION. **Section 11. Montana Administrative Procedure Act applicable.** All final administrative actions or decisions of the commissioner under [sections 8 through 27] are subject to

judicial review under and in accordance with the Montana Administrative Procedure Act.

NEW SECTION.    **Section 12. Annual statement.** (1) On or before September 1 of each year, the board shall file an annual financial statement for the preceding year in a form approved by the commissioner. The statement must be completed in accordance with accounting practices and procedures designated by the commissioner. The statement must be accompanied by an actuarial opinion attesting to the K-12 SHIP's unpaid claims liability.

(2) The board shall file a statement containing any other information concerning its financial affairs that may be reasonably requested by the commissioner.

(3) The commissioner may, after notice and hearing, impose a fine not to exceed \$100 a day and not to exceed \$1,000 if the board fails to file an annual statement as required by this section.

NEW SECTION.    **Section 13. K-12 SHIP amended articles.** The board shall submit a copy of any articles of amendment to the commissioner within 5 business days after the articles have been filed with the office of the secretary of state.

NEW SECTION.    **Section 14. Notice of violation -- conference.** If the commissioner for any reason believes that a violation of [sections 8 through 27] has occurred or is threatened, the commissioner may give written notice to the board

and to the representatives or other persons who appear to be involved in the suspected violation to arrange a conference with the alleged violators or their authorized representative. The purpose of the conference is to attempt to ascertain the facts relating to the suspected violation and, in the event it appears that a violation has occurred or is threatened, to arrive at an adequate and effective means of correcting or preventing the violation.

**NEW SECTION.**    **Section 15. Cease and desist order.** (1) The commissioner acting in the name of the state may issue an order directing the K-12 SHIP or its representative to cease and desist from engaging in any act or practice in violation of the provisions of [sections 8 through 27].

(2) Within 15 days after service of the order of cease and desist, the respondent may request a hearing on the questions of whether acts or practices in violation of [sections 8 through 27] have occurred. These hearings must be conducted under the Montana Administrative Procedure Act.

**NEW SECTION.**    **Section 16. Injunctive relief.** In the case of any violation of the provisions of [sections 8 through 27], if the commissioner elects not to issue a cease and desist order or in the event of noncompliance with a cease and desist order issued under [sections 8 through 27], the commissioner may institute a proceeding to obtain injunctive relief, receivership, or other appropriate relief in the district court of the county

in which the violation occurs or in which the principal place of business of the K-12 SHIP is located. Any proceeding under this section must conform to the requirements of Title 27, chapter 19 or 20, except that the commissioner may not be required to allege facts tending to show the lack of an adequate remedy at law or tending to show irreparable damage or loss.

NEW SECTION.    **Section 17. Reserves -- requirements**

**suspended.** (1) The K-12 SHIP shall maintain at all times unobligated funds adequate to:

(a) provide the hospital, medical-surgical, and other health services made available to its members and beneficiaries; and

(b) meet all costs and expenses.

(2) In addition, reserves of the K-12 SHIP in cash, certificates of deposit, obligations issued or guaranteed by the government of the United States, or other assets approved by the commissioner must be maintained in an amount not less than:

(a) \$750,000; or

(b) an amount equal to one month's average income from premiums paid to the K-12 SHIP by its members or beneficiaries, based on an average of the preceding 12 months, whichever is less.

(3) The determination of minimum reserves is subject, as to amounts payable to participating providers of the health services, to any right of the program to prorate the amounts under the terms of its health services contracts with providers.

(4) The commissioner may decrease or suspend the

requirements of this section if the commissioner finds that the action is in the best interest of the members of the K-12 SHIP.

(5) The K-12 SHIP may satisfy the reserve requirements of this section by obtaining a line of credit from the board of investments as provided in [section 7].

NEW SECTION. **Section 18. Annual report by certified public accountant.** (1) The board shall file annually with the commissioner, on or before December 1, a financial statement audited by a certified public accountant pursuant to rules promulgated by the commissioner.

(2) The commissioner may establish rules governing the content and preparation of the report required by subsection. The report must include:

(a) the K-12 SHIP's financial statements for the most recent fiscal year;

(b) an opinion by the certified public accountant concerning the accuracy and fairness of the K-12 SHIP's representation of its financial statements; and

(c) other information that the commissioner specifies by rule.

NEW SECTION. **Section 19. Fees.** (1) The K-12 SHIP shall pay the following fees to the commissioner for enforcement of the provisions of [sections 8 through 27]:

(a) for a certified copy of any document or other paper filed in the office of the commissioner, per page, 50 cents;



- (b) filing of a membership contract, \$25;
- (c) filing of a membership contract package, \$100; and
- (d) filing an annual statement, \$25.

(2) The commissioner shall promptly deposit with the state treasurer, to the credit of the state special revenue fund of the state auditor's office, all fees received under this section.

NEW SECTION.    **Section 20. Forms -- filing -- approval.** A copy of all forms of the membership contract or any type of endorsement or rider must be filed with and approved by the commissioner in accordance with Title 33, chapter 1, part 5.

NEW SECTION.    **Section 21. Allowed contracts.** (1) The K-12 SHIP may enter into contracts for the rendering of health services on behalf of its members or beneficiaries with:

- (a) hospitals maintained by a governmental body or agency;
- (b) hospitals maintained by a nonprofit corporation organized for hospital purposes; or
- (c) other corporations, organizations, associations, partnerships, or individuals furnishing health services.

(2) The K-12 SHIP may enter into agreements or contracts with other organizations or corporations licensed to do business in this state or in any other state for:

- (a) the transfer of members or beneficiaries;
- (b) the reciprocal joint provisions of benefits to the members or beneficiaries of the K-12 SHIP and of those other organizations or corporations; or

(c) other joint undertakings the board approves.

**NEW SECTION. Section 22. Grievance procedure for members.**

Any individual member of the K-12 SHIP, who believes to be aggrieved by any act or omission of the K-12 SHIP or its officers, directors, or employees may file a statement in writing of the grievance in the office of the commissioner, and the commissioner may investigate the grievance. An investigation by the commissioner may not act as a bar to any suit in a court of competent jurisdiction instituted by an aggrieved member or as a bar to any defense by the K-12 SHIP.

**NEW SECTION. Section 23. Nonliability for injuries caused by contractees.** The K-12 SHIP is not liable for injuries resulting from neglect, misfeasance, malfeasance, or malpractice on the part of any person, organization, agency, or corporation rendering health services to the program's members and beneficiaries.

**NEW SECTION. Section 24. Prohibited trade practices.** In order to regulate trade practices of the K-12 SHIP, the following practices are prohibited.

(1) A person may not directly or indirectly make, issue, or circulate any estimate, circular, or statement misrepresenting:

(a) the terms of any K-12 SHIP membership contract issued or to be issued; or

(b) the benefits or advantages promised by any membership

contract.

(2) A person may not make any misleading representation or any misrepresentation as to the financial condition of the K-12 SHIP.

(3) A person may not directly or indirectly make, publish, disseminate, circulate, or place before the public in a newspaper, magazine, or other publication or in the form of a notice, circular, pamphlet, letter, or poster or over any radio or television station or in any other way an advertisement, announcement, or statement containing any assertion, representation, or statement containing any assertion, representation, or statement with respect to the business of the K-12 SHIP that is untrue, deceptive, or misleading.

(4) A person may not directly or indirectly make or issue any written or oral statement misrepresenting or making incomplete comparisons as to the terms, conditions, or benefits contained in any K-12 SHIP membership contract for the purpose of inducing or attempting to induce a member to cancel or convert any membership contract.

(5) A person may not file with any public official or directly or indirectly make, publish, disseminate, circulate, or deliver to any person or place before the public any false statement of financial condition of the K-12 SHIP with the intent to deceive.

(6) A person may not make any false entry in any book, report, or statement of the K-12 SHIP with the intent to deceive any agent or examiner lawfully appointed to examine its condition

or any of its affairs or any public official to whom the K-12 SHIP is required by law to report or who has authority by law to examine its condition or any of its affairs or, with like intent, willfully omit to make a true entry of any material fact pertaining to the business of the K-12 SHIP in any book, report, or statement of the K-12 SHIP.

(7) A person may not directly or indirectly make, publish, disseminate, or circulate any oral or written statement or any pamphlet, circular, article, or literature that is false or maliciously critical of or derogatory to the financial condition of the K-12 SHIP and that is calculated to injure any person engaged or proposing to engage in the business of operating the K-12 SHIP.

(8) A person may not enter into an agreement to commit or by any concerted action commit any act of boycott, coercion, or intimidation resulting in unreasonable restraint of the operation of the K-12 SHIP.

NEW SECTION.    **Section 25.    Discrimination between individuals -- restrictions -- ratesetting by commissioner prohibited.** (1) A person may not knowingly discriminate or permit any unreasonable discrimination between individuals of essentially the same condition of health in any classification that may be established by the K-12 SHIP in the amount of premiums charged for any membership contract or in the benefits payable under any membership contract or in any of the terms and conditions of the plan or in any manner whatever.

(2) This section does not restrict the right of the K-12 SHIP, within the discretion of the board, to limit or define the classes of persons who are eligible to become members or the benefits that it will furnish and define the benefits as it undertakes to furnish into classes or kinds. The K-12 SHIP may make available to its members health services or reimbursement for health services as the board may approve.

(3) [Sections 8 through 27] do not give the commissioner the power to fix and determine a rate level by classification or otherwise.

NEW SECTION.    **Section 26. Newborn infants.** (1) A health plan issued by the K-12 SHIP may not contain any disclaimer, waiver, preexisting condition exclusion, or other limitation of coverage relative to the accident and sickness coverage or insurability of newborn infants of the persons insured from and after the moment of birth.

(2) Each policy, certificate, or membership contract must contain a provision granting immediate accident and sickness coverage, from and after the moment of birth, to each newborn infant of any insured person. The policy, certificate, or membership contract may require notification of the birth of a child and payment of a required premium or subscription fee to be furnished to the insurer or nonprofit or indemnity corporation within 31 days of the birth in order to have the coverage extend beyond 31 days.



NEW SECTION.    **Section 27. Continuation of coverage for persons with disabilities.** A K-12 SHIP health benefit plan delivered or issued for delivery in this state that provides that coverage of a dependent child of an employee or other member of the covered group terminates upon attainment of the limiting age for dependent children specified in the contract must also provide in substance that attainment of the limiting age may not operate to terminate the coverage of the child while the child is and continues to be both incapable of self-sustaining employment by reason of mental retardation or physical disability and chiefly dependent upon the member for support and maintenance. Proof of retardation or disability and dependency must be furnished to the K-12 SHIP by the employee or member within 31 days of the child's attainment of the limiting age and subsequently as may be required by the K-12 SHIP. Proof may not be required more frequently than annually after the 2-year period following the child's attainment of the limiting age.

NEW SECTION.    **Section 28. Dentists performing services common to both medicine and dentistry.** A K-12 SHIP health benefit plan may exclude coverage for dental care or services, but a plan may not disallow payment to a dentist for health care or services for which a physician would be paid, provided the dentist is licensed under the law of this state to perform the care or service.

NEW SECTION.    **Section 29. Coverage required for services**

**provided by nurse specialists.** The K-12 SHIP shall provide coverage for health services provided by a nurse specialist, as specifically listed in 37-8-202(5), if the health care services that nurse specialists are licensed to perform are covered by the contract.

NEW SECTION. **Section 30. Coverage for adopted children from time of placement -- preexisting conditions.** (1) Each K-12 SHIP health plan or membership contract issued or amended in this state that provides coverage of dependent children of a member must provide coverage for an adopted child of the member to the same extent as for natural children of the member.

(2) The coverage required by this section must be effective from the date of placement for the purpose of adoption and must continue unless the placement is disrupted prior to legal adoption and the child is removed from placement. Coverage at the time of placement must include the necessary care and treatment of medical conditions existing prior to the date of placement.

(3) As used in this section, "placement" has the meaning as defined in 33-22-130.

NEW SECTION. **Section 31. Subrogation rights.** A K-12 SHIP contract may contain a provision providing that, to the extent necessary for reimbursement of benefits paid to or on behalf of the insured, the K-12 SHIP is entitled to subrogation, as provided for in [section 32], against a judgment or recovery received by the insured from a third party found liable for a

wrongful act or omission that caused the injury necessitating benefit payments.

NEW SECTION. **Section 32. Notice -- shared costs of third-party action -- limitation.** (1) If an insured intends to institute an action for damages against a third party, the insured shall give the K-12 SHIP reasonable notice of the insured's intention to institute the action.

(2) The insured may request that the K-12 SHIP pay a proportionate share of the reasonable costs of the third-party action, including attorney fees.

(3) The K-12 SHIP may elect not to participate in the cost of the action. If an election is made, the K-12 SHIP waives 50% of any subrogation rights granted to it by [section 31].

(4) The K-12 SHIP's right of subrogation granted in [section 31] may not be enforced until the injured insured has been fully compensated.

**Section 33.** Section 2-18-103, MCA, is amended to read:

**"2-18-103. Officers and employees excepted.** Parts 1 through 3 and 10 do not apply to the following officers and employees in state government:

- (1) elected officials;
- (2) county assessors and their chief deputies;
- (3) employees of the office of consumer counsel;
- (4) judges and employees of the judicial branch;
- (5) members of boards and commissions appointed by the

governor, the legislature, or other elected state officials;

(6) officers or members of the militia;

(7) agency heads appointed by the governor;

(8) academic and professional administrative personnel with individual contracts under the authority of the board of regents of higher education;

(9) academic and professional administrative personnel and live-in houseparents who have entered into individual contracts with the state school for the deaf and blind under the authority of the state board of public education;

(10) investment officer, assistant investment officer, executive director, and five professional staff positions of the board of investments;

(11) four professional staff positions under the board of oil and gas conservation;

(12) assistant director for security of the Montana state lottery;

(13) executive director and employees of the state compensation insurance fund;

(14) state racing stewards employed by the executive secretary of the Montana board of horseracing;

(15) executive director of the Montana wheat and barley committee;

(16) commissioner of banking and financial institutions;

(17) training coordinator for county attorneys;

(18) employees of an entity of the legislative branch consolidated, as provided in 5-2-504;

(19) chief information officer in the department of administration;

(20) chief business development officer and six professional staff positions in the office of economic development provided for in 2-15-218;

(21) employees of the K-12 statewide health insurance board established in [section 5]."

{ Internal References to 2-18-103:

X 2-18-101      X 2-18-201      X 2-18-301      X 32-1-211  
X 44-4-101 }

**Section 34.** Section 17-5-1608, MCA, is amended to read:

**"17-5-1608. Limitations on amounts.** The board may not issue any bonds or notes that cause the total outstanding indebtedness of the board under this part, except for bonds or notes issued to fund or refund other outstanding bonds or notes or to purchase registered warrants or tax or revenue anticipation notes of a local government as defined in 7-6-1101, to exceed ~~\$120~~ \$144 million."

{ Internal References to 17-5-1608:

X 15-1-141 }

**Section 35.** Section 17-7-502, MCA, is amended to read:

**"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.



(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-15-151; 2-17-105; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-1-113; 15-1-121; 15-23-706; 15-35-108; 15-36-332; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-11-404; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 20-8-107; [section 4]; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-5-306; 23-5-409; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 42-2-105; 44-12-206; 44-13-102; 50-4-623; 53-1-109; 53-6-703; 53-24-108; 53-24-206; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 77-2-362; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161; 87-1-513; 90-3-1003; 90-6-710; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws

of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to Ch. 422, L. 1997, the inclusion of 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 2 and 5, Ch. 481, L. 2003, the inclusion of 90-6-710 terminates June 30, 2005; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 3 and 6, Ch. 481, L. 2003, the inclusion of 15-35-108 terminates June 30, 2010; and pursuant to sec. 135, Ch. 114, L. 2003, the inclusion of 2-15-151 terminates June 30, 2005.) "

{ Internal References to 17-7-502:

X 2-15-151	X 2-17-105	X 5-13-403	X 10-3-203
X 10-3-310	X 10-3-312	X 10-3-312	X 10-3-314
X 10-4-301	X 15-1-111	X 15-1-113	X 15-1-121
X 15-23-706	X 15-35-108	X 15-35-108	X 15-36-332
X 15-37-117	X 15-38-202	X 15-38-202	X 15-65-121
X 15-65-121	X 15-70-101	X 16-11-404	X 17-1-508
X 17-3-106	X 17-3-212	X 17-3-222	X 17-3-241
X 17-6-101	X 17-7-304	X 17-7-501	X 18-11-112
X 19-3-319	X 19-9-702	X 19-13-604	X 19-17-301
X 19-18-512	X 19-19-305	X 19-19-506	X 19-20-604
X 20-8-107	X 20-9-534	X 20-9-622	X 20-26-1503
X 22-3-1004	X 23-5-306	X 23-5-409	X 23-5-612
X 23-5-631	X 23-7-301	X 23-7-402	X 37-43-204
X 37-51-501	X 39-71-503	X 42-2-105	X 44-12-206
X 44-13-102	X 50-4-623	X 53-1-109	X 53-6-703
X 53-24-108	X 53-24-108	X 53-24-206	X 61-3-415

X 69-3-870	X 75-1-1101	X 75-5-1108	X 75-6-214
X 75-10-622	X 75-11-313	X 77-2-362	X 80-2-222
X 80-4-416	X 80-5-510	X 80-11-518	X 82-11-161
X 87-1-513	X 90-3-1003	X 90-6-710	X 90-9-306}

**Section 36.** Section 33-1-102, MCA, is amended to read:

**"33-1-102. Compliance required -- exceptions -- health service corporations -- health maintenance organizations -- governmental insurance programs -- service contracts.** (1) A person may not transact a business of insurance in Montana or a business relative to a subject resident, located, or to be performed in Montana without complying with the applicable provisions of this code.

(2) The provisions of this code do not apply with respect to:

(a) domestic farm mutual insurers as identified in chapter 4, except as stated in chapter 4;

(b) domestic benevolent associations as identified in chapter 6, except as stated in chapter 6; and

(c) fraternal benefit societies, except as stated in chapter 7.

(3) This code applies to health service corporations as prescribed in 33-30-102. The existence of the corporations is governed by Title 35, chapter 2, and related sections of the Montana Code Annotated.

(4) This code applies to the K-12 statewide health insurance program. The existence of the K-12 statewide health insurance program is governed by [sections 8 through 27] and related

sections of the Montana Code Annotated.

~~(4)~~(5) This code does not apply to health maintenance organizations or to managed care community networks, as defined in 53-6-702, to the extent that the existence and operations of those organizations are governed by chapter 31 or to the extent that the existence and operations of those networks are governed by Title 53, chapter 6, part 7. The department of public health and human services is responsible to protect the interests of consumers by providing complaint, appeal, and grievance procedures relating to managed care community networks and health maintenance organizations under contract to provide services under Title 53, chapter 6.

~~(5)~~(6) This code does not apply to workers' compensation insurance programs provided for in Title 39, chapter 71, parts 21 and 23, and related sections.

~~(6)~~(7) The department of public health and human services may limit the amount, scope, and duration of services for programs established under Title 53 that are provided under contract by entities subject to this title. The department of public health and human services may establish more restrictive eligibility requirements and fewer services than may be required by this title.

~~(7)~~(8) This code does not apply to the state employee group insurance program established in Title 2, chapter 18, part 8.

~~(8)~~(9) This code does not apply to insurance funded through the state self-insurance reserve fund provided for in 2-9-202.

~~(9)~~(10) (a) This Except for the K-12 statewide health

insurance program, this code does not apply to any arrangement, plan, or interlocal agreement between political subdivisions of this state in which the political subdivisions undertake to separately or jointly indemnify one another by way of a pooling, joint retention, deductible, or self-insurance plan.

(b) ~~This~~ Except for the K-12 statewide health insurance program, this code does not apply to any arrangement, plan, or interlocal agreement between political subdivisions of this state or any arrangement, plan, or program of a single political subdivision of this state in which the political subdivision provides to its officers, elected officials, or employees disability insurance or life insurance through a self-funded program.

~~(10)~~ (11) (a) This code does not apply to the marketing of, sale of, offering for sale of, issuance of, making of, proposal to make, and administration of a service contract.

(b) A "service contract" means a contract or agreement for a separately stated consideration for a specific duration to perform the repair, replacement, or maintenance of property or to indemnify for the repair, replacement, or maintenance of property if an operational or structural failure is due to a defect in materials or manufacturing or to normal wear and tear, with or without an additional provision for incidental payment or indemnity under limited circumstances, including but not limited to towing, rental, and emergency road service. A service contract may provide for the repair, replacement, or maintenance of property for damage resulting from power surges or accidental



damage from handling. A service contract does not include motor club service as defined in 61-12-301.

~~(11)~~(12) (a) Subject to 33-18-201 and 33-18-242, this code does not apply to insurance for ambulance services sold by a county, city, or town or to insurance sold by a third party if the county, city, or town is liable for the financial risk under the contract with the third party as provided in 7-34-103.

(b) If the financial risk for ambulance service insurance is with an entity other than the county, city, or town, the entity is subject to the provisions of this code."

{ Internal References to 33-1-102:  
X 33-35-103 }

**Section 37.** Section 33-1-201, MCA, is amended to read:

**"33-1-201. Definitions -- insurance in general.** For the purposes of this code, the following definitions apply unless the context requires otherwise:

(1) An "alien insurer" is one formed under the laws of any country other than the United States, its states, districts, territories, and commonwealths.

(2) An "authorized insurer" is one duly authorized by subsisting certificate of authority issued by the commissioner to transact insurance in this state.

(3) A "domestic insurer" is one incorporated under the laws of this state.

(4) A "foreign insurer" is one formed under the laws of any jurisdiction other than this state. Except where distinguished by

context, foreign insurer includes also an alien insurer.

(5) (a) "Insurance" is a contract whereby one undertakes to indemnify another or pay or provide a specified or determinable amount or benefit upon determinable contingencies.

(b) Insurance does not include contracts for the installation, maintenance, and provision of inside telecommunications wiring to residential or business premises.

(6) "Insurer" includes every person engaged as indemnitor, surety, or contractor in the business of entering into contracts of insurance. The term also includes:

(a) a health service corporation in the provisions listed in 33-30-102; and

(b) the K-12 statewide health insurance program but only in the applicable provisions of [section 9].

(7) A "resident domestic insurer" is an insurer incorporated under the laws of this state and:

(a) if a mutual company, not less than one-half of the policyholders are natural persons who are residents of this state; or

(b) if a stock insurer, not less than one-half of the shares are owned by natural persons who are residents of this state and all of the directors and officers of the insurer are residents of this state.

(8) "State", when used relating to jurisdiction, means a state, the District of Columbia, or a territory, commonwealth, or possession of the United States.

(9) "Transact", with respect to insurance, includes any of

the following:

- (a) solicitation and inducement;
- (b) preliminary negotiations;
- (c) effectuation of a contract of insurance;
- (d) transaction of matters subsequent to effectuation of

the contract of insurance and arising out of it.

(10) An "unauthorized insurer" is one not authorized by subsisting certificate of authority issued by the commissioner to transact insurance in this state."

{ Internal References to 33-1-201:

X 33-2-109      X 33-2-1101      X 33-12-102      X 33-12-112  
X 33-22-903      X 33-31-102 }

NEW SECTION.    **Section 38. {standard} Codification**

**instruction.** (1) [Sections 1 through 7] are intended to be codified as an integral part of Title 20, chapter 9, and the provisions of Title 20, chapter 9, apply to [sections 1 through 7].

(2) [Sections 8 through 27] are intended to be codified as an integral part of Title 33, and the provisions of Title 33, apply to [sections 8 through 27].

NEW SECTION.    **Section 39. Implementation of staggered**

**terms.** (1) To implement the staggered-term system provided for in [section 5], the first terms of the members are as follows:

- (a) three members shall serve 3-year terms;
- (b) three members shall serve 4-year terms; and
- (c) three members shall serve 5-year terms.

(2) Upon expiration of the terms provided for in subsection  
(1), each member shall serve a 5-year term.

NEW SECTION.    **Section 40.**    {standard} **Effective date.** [This  
act] is effective on passage and approval and applies to  
contracts entered into on or after [the effective date of this  
act].

- END -

{Name :        Connie Erickson  
Title :        Research Analyst  
Agency:       Legislative Services Division  
Phone :        (406)444-3064  
E-Mail:        cerickson@state.mt.us}

**2005 Montana Legislature**

UNAPPROVED DRAFT BILL -- Subject to Change Without Notice!

About Bill -- Links

\_\_\_\_ JOINT RESOLUTION NO.

INTRODUCED BY \_\_\_\_\_

(Primary Sponsor)BY REQUEST OF THE EDUCATION AND LOCAL GOVERNMENT

INTERIM COMMITTEE

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING THE LEGISLATURE TO SUPPORT THE EFFORTS OF THE BOARD OF REGENTS OF HIGHER EDUCATION AND THE MONTANA UNIVERSITY SYSTEM TO STRENGTHEN THE STATE'S ECONOMY BY IMPLEMENTING THE POLICY RECOMMENDATIONS IDENTIFIED IN THE DOCUMENT ENTITLED "SHARED LEADERSHIP FOR A STRONGER MONTANA ECONOMY".

WHEREAS, economic development in Montana has many advocates, including the Governor, state Legislature, Congressional Delegation, educators, and business community; and

WHEREAS, on January 15, 2004, the Board of Regents of Higher Education unanimously approved a plan to identify those areas in which the Montana University System can take a more active role in partnering with the Governor's Office and the Legislature to advance the state's economy; and

WHEREAS, upon approval of the Legislative Council and under the direction of the Education and Local Government Interim Committee, the Postsecondary Education Policy and Budget Subcommittee staff became part of an ad hoc working group with the Office of the Commissioner of Higher Education and the Governor's Office to create a document entitled "Shared Leadership for a Stronger Montana Economy", which developed an action plan to identify and prioritize key initiatives in which the Montana University System has core competencies and credible expertise and that represent the best opportunities for the University System to play a more prominent partnership role in driving economic development in the state; and

WHEREAS, after identifying six key initiatives, the working group established a leadership group composed of leaders from the Congressional Delegation, the Legislative and Executive Branches, education, and representatives from local government and private business, followed by the formation of a project team to conduct policy research and develop action plans for each initiative; and

WHEREAS, the Board of Regents' economic development project team met February 25, 2004, to modify or expand the six identified initiatives and to begin identifying specific teams of individuals to develop action plans and strategies for implementing each initiative; and



WHEREAS, on March 24, 2004, action plans and strategies for the six identified initiatives were presented to a joint meeting of the Board of Regents and the Postsecondary Education Policy and Budget Subcommittee for consideration and approval; and

WHEREAS, on July 7, 2004, the Board of Regents and the Postsecondary Education Policy and Budget Subcommittee reviewed the six initiatives and, based on time and available resources, unanimously selected as top priorities for immediate implementation:

(1) improving workforce training and education by strengthening Montana's 2-year postsecondary institutions' efforts to respond to the needs of business and industry in high-demand occupational areas that are critical to the state's economic vitality, by creating a career pathways system for delivering occupational education and training, and by creating a data management system for workforce development;

(2) promoting and enhancing access to postsecondary education by implementing programs that promote the value of and remove barriers to postsecondary education for Montana's citizens; and

(3) enhancing distance learning by centralizing and coordinating online delivery of education across the entire Montana University System; and

WHEREAS, the Board of Regents and the Postsecondary Education Policy and Budget Subcommittee recognized the remaining three initiatives as extremely valuable and agreed that the Board of Regents should continue its efforts long term to:

(1) expand partnerships between the Montana University System and Montana businesses by creating a state level office, independent of politics and individual campuses, to coordinate statewide resources and identify existing business that could benefit from university technology partnerships or other business support resources;

(2) collaborate with the state, local, and, when appropriate, tribal governments to provide a means for the University System to become more engaged in resolving identified problems; and

(3) establish a partnership between the Department of Commerce, Montana Promotion Division of the Department of Commerce, and the Montana University System to increase the Montana University System's promotion to out-of-state students and alumni.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

(1) That the Legislature continue to support the efforts of the Board of Regents of Higher Education and the Montana University System to partner with the Legislative and Executive Branches, local and tribal governments, and the private sector to strengthen the state's economy by implementing the six initiatives identified and described in the document entitled "Shared Leadership for a Stronger Montana Economy".

(2) That a copy of this resolution be sent by the Secretary of State to the Board of Regents of the Montana

University System, to the Montana Association of Counties, to the Montana League of Cities and Towns, and to each tribal government located on the seven Montana reservations and to the Little Shell Band of Chippewa.

- END -

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**Latest Version of LC 412 (LC0412.01)**

Processed for the Web on September 30, 2004 (1:28pm)

New language in a bill appears underlined, deleted material appears stricken.

Sponsor names are handwritten on introduced bills, hence do not appear on the bill until it is reprinted.

See the [status of this bill](#) for the bill's primary sponsor.

[Status of this Bill](#) | [2005 Legislature](#) | [Leg. Branch Home](#)

[This bill in WP 5.1](#) | [All versions of all bills \(WP 5.1 format\)](#)

[Authorized print version w/line numbers \(PDF format\)](#)

[ [NEW SEARCH](#) ]

Prepared by Montana Legislative Services

(406) 444-3064



## **APPENDIX B**







# Education and Local Government Interim Committee

PO BOX 201706  
Helena, MT 59620-1706  
(406) 444-3064  
FAX (406) 444-3036

## 58th Montana Legislature

### SENATE MEMBERS

GREGORY BARKUS  
WILLIAM GLASER  
RICK LAIBLE  
JEFF MANGAN  
DON RYAN  
DEBBIE SHEA

### HOUSE MEMBERS

JOAN ANDERSEN  
NORMAN BALLANTYNE  
SUE DICKENSON  
TOM FACEY  
VERDELL JACKSON  
LARRY LEHMAN

### COMMITTEE STAFF

CONNIE ERICKSON, Research Analyst  
EDDY MCCLURE, Staff Attorney  
REBECCA SATTler, Secretary  
PAMELA JOEHLER

TO: Interested Persons  
FROM: Leanne Kurtz, HJR 37 staff  
DATE: October 14, 2003  
RE: House Joint Resolution No. 37 (study of the Subdivision and Platting Act)

You or your organization has been identified as a potential interested party in the above-referenced legislative interim study (enclosed). The study has been assigned to the Education and Local Government Interim Committee, which has formed a Local Government Subcommittee to handle the HJR 37 study and other topics related to local governments.

Representative Joan Andersen appointed the Local Government Subcommittee last week. The members are Senators Jeff Mangan (chair), Rick Laible, and Bill Glaser and Representative Andersen.

The purpose of this memo is to notify you of the membership, alert you to the meeting that is planned for Thursday, October 30, starting at 9:00 a.m. in Room 152 of the Capitol, and most importantly, to solicit your input and comments with regard to the study and to the Subdivision and Platting Act.

At the conclusion of the October 30 meeting, the Subcommittee will be determining the scope of the study and giving me direction on how to proceed. While a study resolution offers guidance for the scope of a study, the legislators charged with conducting the study have the prerogative to define the scope as they consider appropriate. As the professionals who work with the Act on a daily basis, your input will be important to the members as they make those decisions. You are encouraged to attend the meeting and offer your comments or, if you are unable to attend, please send your comments to me at the address on the letterhead and I will make sure the members receive them. If you do attend, written testimony is always appreciated.

If you plan to contribute comments or suggestions, please be as specific as possible in identifying the problem you see with the law and how you propose to correct it. Wherever possible, please reference specific sections of the Montana Code Annotated.

The public comment portion of the meeting is scheduled from 10:30 - 11:15, after the Subcommittee hears from a panel that will discuss how the process currently works, including the role of the Sanitation in Subdivisions Act.

I hope you will be able to attend the meeting on the 30th. Please feel free to contact me with any questions. My phone number is (406) 444-3593 and my e-mail address is lekurtz@state.mt.us.

## **APPENDIX C**





# Education and Local Government Interim Committee

## 58th Montana Legislature

PO BOX 201706  
Helena, MT 59620-1706  
(406) 444-3064  
FAX (406) 444-3036

### SENATE MEMBERS

DON RYAN-Vice Chair  
GREGORY BARKUS  
WILLIAM GLASER  
RICK LAIBLE  
JEFF MANGAN  
DEBBIE SHEA

### HOUSE MEMBERS

JOAN ANDERSEN-Chair  
NORMAN BALLANTYNE  
SUE DICKENSON  
TOM FACEY  
VERDELL JACKSON  
LARRY LEHMAN

### COMMITTEE STAFF

CONNIE ERICKSON, Research Analyst  
EDDY MCCLURE, Staff Attorney  
REBECCA SATTLER, Secretary  
PAMELA JOEHILER, Fiscal Analyst

The Montana Association of Planners surveyed its members recently on the specific issue of a pre-application process for applications for major and minor subdivision proposals. Five questions were asked. The following is a compilation of those surveys that were returned.

### 1. Does your city or county have a pre-application process for subdivision applications (major and minor)?

The overwhelming majority of those who responded said yes to this question. One survey stated that for a minor subdivision, the applicant has the option of submitting a pre-application or having a pre-submittal meeting. For a major subdivision, a pre-application is required and a pre-submittal meeting is strongly recommended.

### 2. If you have a pre-application process, is a pre-application meeting required prior to subdivision application submittal?

A majority of those who responded said yes to this question. Those who said a pre-application meeting was not required also said that applicants were strongly encouraged to request such a meeting or to at least meet with all appropriate departments prior to submitting an application.

### 3. How does the pre-application process work?

According to the survey responses, the purpose of the pre-application meeting is to lay out the approval process and the requirements for approval of an application, develop a time line, answer applicant questions, and identify preliminary problems that will need to be corrected before the final application is submitted.

Most jurisdictions hold the meetings at times requested by the applicant. One jurisdiction holds pre-application meetings twice a week at a set time. Another jurisdiction holds the pre-application meeting on the site of the project.

The pre-application meeting often involves the applicant, the applicant's



professionals (surveyors, engineers, etc.), planning staff, and staff of other departments (fire, road, health, etc.). The applicant is required to submit some sort of preliminary plan that can range from a simple sketch to a more detailed explanation of the project. The preliminary plan is reviewed, questions are asked, and recommendations are made. Some jurisdictions have a prepared checklist that they fill out and then give to the applicant. Other jurisdictions supply the applicants with the notes on the issues discussed at the meeting.

One jurisdiction requires one pre-application meeting for simple projects and two pre-application meetings for more complex projects.

For those jurisdictions that do not require a pre-application meeting, a preliminary proposal is submitted to the planning department. Planning staff then reviews the proposal and sends its review and comments to the applicant.

**4. Do you think your pre-application process helps reduce the length of time it takes for an application to make its way through subdivision review?**

An overwhelming majority answered yes to this question. The pre-application process saves time once the formal review process begins because issues that would delay formal approval have already been identified and addressed. A pre-application process can also help the planning board make a decision at the time the public hearing on the application is held, rather than delay the decision until the next meeting.

While some planning staffs said that the pre-application process does not necessarily reduce the length of time for final approval because they have to work through the issues at some point, the pre-application process does save developers' time and money by identifying major issues prior to submission of an application.

One planner commented that a pre-application process is a waste of time for simple projects offered by developers who are well acquainted with the approval process.

**5. Do you think that the pre-application process saved staff time?**

Again, an overwhelming majority answered yes. Staff spends less time reviewing applications, drafting letters, explaining deficiencies, making phone calls, and counseling applicants on how to prepare applications correctly. A pre-application process results in the submission of more complete applications and in a better

understanding of the process by applicants. A pre-application process also saves time for the planning board and the governing body with final approval authority.

One planner commented that the greatest saving is in better projects, fewer delays at the approval level, fewer requests for variances, and fewer confrontational meetings.

The pre-application process also saves applicants' time and money because it is less costly to make changes early in the process before considerable resources are committed. Also, applicants do not waste their efforts on projects that cannot be approved or have poor functionality.

One planner commented that a first look at a proposal when submitted for review is no different than a first look at a pre-application meeting. If there are problems, they need to be addressed before an application is accepted. In most cases, not having a pre-application meeting is less time-consuming on staff than on an applicant. Another planner commented that a pre-application process results in the same amount of staff time because problems have to be identified at some point in the process.

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## **APPENDIX D**





THIS DOCUMENT WAS CREATED BY TIM DAVIS, EXECUTIVE DIRECTOR OF THE MONTANA SMART GROWTH COALITION AND MEMBER OF THE HJR 37 WORKING GROUP. IT WAS PROVIDED TO THE LOCAL GOVERNMENT SUBCOMMITTEE AT ITS SEPTEMBER 14, 2004, MEETING.

Proposed areas of general agreement for changes to sanitation review as they apply to subdivision review. The details on these points are still being negotiated among the stakeholder groups.

- A subdivider would be required to include most of the water and sanitation information that is required by the Department of Environmental Quality (DEQ), but not all of it, at the preliminary plat stage. What is to be required by DEQ will be determined by DEQ through administrative rules.
- All public comments relating to the water and sanitation issues during the review of the proposed preliminary plat would be required to be forwarded or summarized and forwarded to DEQ to assist in its water and sanitation permit decisions or to local sanitarians for contracted counties.
- A local government could impose conditions or deny a subdivision based on water or sanitation only if it bases those conditions or denials on existing regulations like subdivision, zoning, water quality district, or other adopted regulations. This would remove the ability to simply base conditions and denials on public comments regarding water unless regulations exist.
- Counties would be required to address sanitation and water supply for lots between 20 and 160 acres, although the provisions of that review would be slightly less than the provisions for lots less than 20 acres and would be determined by rule by DEQ.



## **APPENDIX E**



# **Six Action Items Designed to Implement Shared Leadership for a Stronger Montana Economy**

**Prepared for General Discussion**

**August 30, 2004 DRAFT**



## **Leadership Group Members**

Governor of the State of Montana, Judy Martz  
Superintendent of Public Instruction, State of Montana, Linda McCulloch  
Montana Board of Regents, Chair, John Mercer  
Montana Commissioner of Higher Education, Sheila Stearns  
President of the Senate, Montana State Senator Bob Keenan  
Minority Leader of the Senate, State Senator John Tester  
Speaker of the House, Montana State Representative Doug Mood  
Minority Leader of the House, State Representative Dave Wanzenreid

U.S. Senator Conrad Burns  
U.S. Senator Max Baucus  
Congressman Denny Rehberg

AFL/CIO, Executive Secretary, Jerry Driscoll  
Leadership Montana, Bruce Whittenberg, Executive Director  
Montana Board of Public Education, Chair, Kirk Miller  
Montana Chamber of Commerce, Executive Director, Webb Brown  
Representative of Tribal Education, President, Salish-Kootenai College, Joseph McDonald

## **Project Team Members**

Holly Luck for Sen. Baucus  
Betsy Allen for Sen. Burns  
Jeff Garrard for Congressman Rehberg  
Dave Gibson for Gov. Martz  
Sen. President Bob Keenan  
Rep. Dick Haines for Speaker Mood  
Sen. Jeff Mangan for Sen. Minority Leader Tester  
Rep. Monica Lindeen for House Minority Leader Wanzenreid  
John Mercer, Chair, Board of Regents  
Diane Fladmo, John Fuller, and Steve Meloy for Board of Public Ed  
Joe Lamson for Superintendent of Public Instruction McCulloch  
Sheila Stearns, Commissioner of Higher Education  
Bob Peregoy for Salish-Kootenai College President McDonald  
Webb Brown, Executive Director, Montana Chamber  
Jay Reardon for AFL/CIO Executive Secretary Driscoll  
Bruce Whittenberg, Executive Director, Leadership Montana State University  
Dick King, Representative of Montana Economic Developers Association

## Preface

With edits being added for the July 7 edition of this document, it became clear that we needed to include a guide to the changes being made in each edition. This document started as a means to communicate to all involved all of the initiatives originally prepared for the Project Team at its May 4 meeting. We (Sheila Stearns, Dave Gibson, and Bob Person) revised the document after that meeting for the PEPB / Board of Regents May 19 meeting. Now having been further reviewed by the Board of Regents, Leadership Group, Project Team, and others, we have incorporated further changes to prepare the document for the transition of the project to the beginning of the implementation steps.

The August 30 edition contains minor editorial corrections. Changes in the July 12 edition reflect the decision of the Board of Regents to prioritize implementation of three initiatives, namely Workforce Training and Education, Promote and Enhance Access to Postsecondary Education, and Distance Learning. These are now the first three initiatives presented. (Please note that no priority decisions were made regarding the other three initiatives.)

Major changes in the July 7 edition were the addition of specific suggestions to begin implementing suggested solutions. Specifically:

- The heading of each of the six initiative areas includes new introductory material for the section.
- In the Workforce Training and Education section, beginning on page 1, the overall proposal in the previous edition is slightly reworked and more specifically characterized to recognize its overall strategic character; three other two-page initiatives are then included for the value of the detail they offer. The revised section runs through page 9.
- The Distance Learning section includes a description of an organizational structure proposed for implementation beginning in the second paragraph of the "Proposed Solution" section on page 12.
- Beginning on page 20, several new options for implementing the MUS and Governmental Collaboration piece are included to stimulate thought and discussion of just how this initiative might be implemented.
- The "Next Steps" piece in the introduction is revised to reflect the current status of the project.

## Introduction

**Background:** In September 2003, the Montana Board of Regents began to work in earnest to find ways for the Montana University System to take a more direct leadership role in the state's economic development. At the request of the Regents and the Office of Commissioner of Higher Education (OCHE) a number of people from various state agencies/organizations met between September 2003 and January 2004 as an *ad hoc* working group to distill broad goals into practical and actionable initiatives.

Over these months, the composition of this *ad hoc* working group varied but included staff of the Legislative Services Division, the Legislative Fiscal Division, OCHE, the Governor's Office, members of the Board of Regents and others interested in working on this important issue.

The initial work of the *ad hoc* working group culminated in January 2004 when the Board of Regents unanimously approved a process to identify, by May 2004, initiatives they could implement to establish a new role for the Montana University System in strengthening the state's economy. This process involved getting broad-based agreement on those areas that provide the best opportunity for change but still leverage the Montana University System's, and Montana's, unique strengths. Additionally, the Legislative Council – a council of Montana's key legislative leaders from both chambers and both parties – resolved that the Postsecondary Education Policy and Budget (PEPB) Subcommittee be the legislative body to represent the legislature in this process and, during its January meeting, the PEPB Subcommittee approved the process<sup>1</sup>.

In late February, the *ad hoc* working group achieved consensus that formally established the project organization. Included in the organization were groups that provided broad policy oversight and the teams that actually did the groundwork.

**Leadership Group:** The *Leadership Group* is composed of key leaders from the public and private sectors in Montana and provides broad policy oversight to the program primarily through fulfilling the main responsibilities as individuals rather than in attending meetings. The main responsibilities of the group members to the program are to:

- Provide advice and direction
- Be engaged with the project as it moves forward
- Have “ownership” in the project and its outcomes
- Designate a personal representative to work as a member of the Project Team

**Project Team:** The *Project Team* is the groundwork team whose members are designated by a member of the Leadership Group. The main responsibilities of Team members to the program are to:

- Conduct required policy research
- Develop recommendations and action plans

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<sup>1</sup> The Economic Affairs Interim Committee is also interested in, and being kept informed of, this evolving process.

**Project Initiative Teams:** There were six *Project Initiative Teams* each led by a Principal Coordinator assisted by at least one liaison from one of the university system campuses. They were composed of members appointed by the Leadership Group, Project Team Members, or from among volunteers, stakeholders, or staff. Each Initiative Team was assigned a specific initiative area in March 2004. The teams were responsible in April and May 2004 to:

- Meet (or at least consult in writing) not less than weekly to develop recommendations and continually review membership to assure the goal of shared leadership was fulfilled by complete and appropriate representation.
- Prepare team recommendations and complete a 1 to 2 page summary of its four most important recommendations in a standard format by the end of April 2004.
- Present the recommendations included in this report to the *Project Team* on May 4<sup>th</sup> 2004.

The Project Team met May 4<sup>th</sup> to review recommendations prepared by members of the six initiative teams. Based on that review, project staff streamlined, combined, and eliminated items to present six proposals to the joint meeting of the Board of Regents and the Postsecondary Education Policy and Budget Subcommittee (PEPB) held May 19<sup>th</sup> in Great Falls.

**Regents / PEPB Consideration:** At the May 19<sup>th</sup> joint meeting of the PEPB Subcommittee and the Board of Regents all six initiatives were tentatively approved with amendments. The proposals were further refined to reflect these amendments. The refined proposals are the six presented here reordered to reflect working priority decisions made in July 2004.

**Next Steps:** Begin implementation of the top three priorities set by the Board of Regents.

Continue to hold community discussions around the state during the summer months to communicate information about, and get public input on, the proposals.

**Acknowledgements:** The project owes a great debt of gratitude to people from the private sector, the Montana University System, and State Executive and Legislative Offices who have contributed to the meaning of shared leadership by their active efforts. Let us hope their reward is a Stronger Montana Economy.



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# MUS/Business Partnership for Workforce Training and Education

Workforce training and education encompasses a wide array of programs and policies all of which require active partnership with the Montana business community for success. This initiative focuses on four priority actions:

- Strategic direction and overall system coordination
- Standardizing two-year college programs in high demand occupational areas
- Creating a career pathways system
- Developing better workforce system data management

Each of these action items is described in this section in more detail.

**Proposed Action Item:** Establish workforce training partnerships that bring business, industry, government, and components of the university system together to develop and implement a comprehensive strategic plan for workforce development. An important part of this must be specific recommendations for changes in operations, resources, and curricula especially within the two-year system to meet the state's future needs. The plan will consider options for campus specialization, standardizing programs in high-demand occupational areas, creating career pathways systems for occupational training, and better integration into the state's myriad workforce programs.

**State Need:** Montana's success in diversifying and growing its economy will largely depend on the presence of a highly motivated, strategically educated workforce with a highly developed capacity for critical and innovative thinking. The availability of a skilled workforce has become one of the most important issues for attracting and retaining businesses and producing higher paying jobs. Workforce skill level is a key driver of innovation and productivity improvement across all industries. The ability to grow Montana's economy and wage levels depends entirely on our ability to continuously raise the skill levels of our workers and be responsive to the needs of Montana's businesses and industries.

Over the past several decades, the role of the two-year college has changed dramatically. Once the primary provider of moderately skilled vocational training, it has emerged as the critical provider of higher technical skills training for the regional economy. The mid-tier skill level worker, whose training comes from periodic skills upgrades, technical certifications, and associates degrees that are generally provided by a quality two-year college system, is highly likely to apply those skills within the region. These two factors – higher skill level needs and likely regional skill application among mid-skilled workers – makes a well-organized and effective two-year college system a critical, positive factor in a successful regional economy.

**Current Problem:** The Shared Leadership teams have identified a number of options to consider in our two-year system to better prepare Montana workers for higher skilled and better paying jobs. Among these areas are needs for: more customized training programs, a career pathway system for occupational training, better integration of university and non-university workforce training programs, and greater standardization of programs. While it is important to begin work now on addressing these needs, it is also important to simultaneously address a fundamental issue: the need for a two-year education system with better system-wide strategic direction and coordination.

In Montana we have seven tribal colleges (at Browning, Pablo, Rocky Boy, Ft. Belknap, Lame Deer, Poplar, and Crow Agency), three community colleges (Flathead Valley, Kalispell; Dawson, Glendive, and Miles, Miles City), two stand-alone Colleges of Technology (COTs) – one each under UM (Helena) and MSU (Great Falls) administration, one COT reporting through a main campus (UM) (Missoula) and two reporting through branch campuses (one each in UM (Butte through Montana Tech) and MSU (Billings through MSU-Billings)). Additionally, MSU-Northern offers both two- and four-year programming in Havre as does UM-Western in Dillon. This complex organizational and reporting structure creates difficulties in coordinating two-year specific policies and coordinating system-wide improvements. The increasing need for specialized and expensive two-year training programs will only exacerbate issues associated with a lack of strategic direction and focused system-wide leadership.

**Proposed Solution:** Create a Shared Leadership Team to recommend and implement statewide improvements to the current operations, resources, and curricula of our two-year colleges. The membership of this team should consist of key leaders in our business

community, the current two-year and four-year system, Legislature, Dept. of Labor, K-12 system and Governor's Office. Among other endeavors, the team should:

- Make recommendations on the principal strategic role of the two-year system in Montana over the next two decades;
- Recommend means to invest additional money into workforce development and coordinate MUS resources that more effectively leverage the effect of that investment;
- Develop means to improve communication and coordination within the two-year system;
- Recommend statewide policies or programs to support customized training for Montana businesses; and
- Provide coordination of other Shared Leadership workforce training and education actions.

**State Investment:** The obvious initial costs of this proposal are funding the administrative costs of the team. This is probably less than \$100,000 for travel, meetings, research, etc. over the course of the year and it may be possible to share this cost among various groups committed to this process. The costs of implementing the recommendations, once developed, will be part of the team's specific task.

**Return on Investment:** The returns on investment for a stronger two-year system are many. There may be some immediate opportunities to increase revenues for the system such as capturing apprenticeship training, and associated revenue, in Montana that is currently being sourced in the North Dakota University System. Furthermore, an optimally structured two-year system with clear strategic direction will increase the total number of Montanans in the higher education system, lower the attrition rates in our higher cost four-year system, and produce a more highly skilled workforce with the training needed for employment in the state. A cohesive and well-positioned two-year education system is not part of a zero-sum game – it is a vital part of growing the higher education system as a whole.

By increasing the number of Montanans with education beyond the high school graduation level we will also have a profound impact on the ability of our citizens to command higher wages and better jobs. Nationally, the wages earned by individuals with at least some postsecondary education were 62% above those with only a high school diploma. Applied to Montana's average wage this amounts to a differential of more than \$15,000 per worker.<sup>2</sup> This wage premium has been increasing steadily for the past three decades and will continue to climb.

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<sup>2</sup> The Economic Roots of K-16 Reform, Anthony Carnevale, 2003



**Proposed Action Item:** Bring business, industry, government, and two-year colleges together to standardize two-year college programs in high-demand occupational areas critical to the state's economic vitality—e.g., computer technology, healthcare, and entrepreneurship.

**State Need:**

- Workforce preparation programming in Montana must be reflective of and responsive to the needs of the business and industry, especially those businesses and industries most critical to the future economic well-being of the state.
- Whether Montanans are preparing for work, adding value to their current work, or changing their line of work, they need access to higher education programs that efficiently and consistently develop the proficiencies required to do the work well.
- As a state with a relatively small population, Montana needs to ensure existing and potential Montana industries that Montana has a statewide workforce commonly prepared and consistently credentialed to meet business and industry demands.
- Montana needs to identify, credential, and add value to the specialized endorsements, certificates, and degrees of two-year colleges that support a high-tech, high-wage economy so that students complete full programs of study and employers have confidence in the proficiencies represented by the AAS degree.

**Current Problem:**

- Although industry demands in similar fields are relatively constant from region to region in Montana, two-year college programs addressing these demands vary significantly, eroding employer confidence in the skill set associated with a particular degree or certificate and complicating students' transfer experiences.
- Because employers in Montana often attach little value in hiring or salary decisions to two-year credentials, incentives for students to complete specialized endorsements, certificates, and AAS degrees are weak.
- In business and computer technology programs in particular, students often craft their own "skill-set package" from the courses offered within a two-year college program and, as a result, end up with no credential to present to an employer upon completion and no degree as a foundation for higher educational attainment levels in the future.
- Montanans and Montana are wasting time and money because the state has not used two-year programs to streamline progress into or through a career—e.g., career ladders beginning in high school, career transitions expedited by crediting applicable experience for coursework, or career enhancements through specialized endorsements in such areas as web-page design, business plans, bookkeeping, or marketing.

**Proposed Solution:**

- Create Shared Leadership Action Teams for computer technology, entrepreneurship, and healthcare, asking representatives from leading state and/or national companies/industries, as well as Department of Commerce and Office of Public Instruction, to assist two-year colleges in identifying proficiencies to be acquired, learning experiences to instill them, and assessments that measure them, credentials that document them, and hiring and salary incentives to reward the acquisition of these proficiencies and credentials.
- Provide incentives for participating two-year colleges to create a common curriculum and delivery system for AAS degrees, as well as specialized endorsements, certificates, and one-year programs in computer technology, entrepreneurship, and healthcare.

- Focus and expand Tech Prep, Med Prep, and Running Start programs in Montana high schools to encourage students to acquire proficiencies and credentials that apply to every career area – e.g., computer technologies and entrepreneurship.
- Provide evening, weekend, mobile, and on-line course delivery to improve access to proficiency training and credentialing for place-bound and/or geographically isolated Montana workers and workplaces.
- Create a cadre of master faculty in Montana's two-year colleges who will deliver proficiency training to workers and workplaces throughout the state.
- Create a virtual workforce of computer technologists and business entrepreneurs capable of providing support services and innovation to employers throughout the state, nation, and world.

#### State Investment:

- \$3,000 for faculty from each two-year college for developing common curricula and credentialing in computer technology, entrepreneurship, one healthcare program. = 3K x 12 programs (avg.) x 3 careers = **\$108,000** one time only
- **\$75,000** salary and benefits for person coordinating this effort – writing curricula, arranging meetings with industry, communications, coordinating meetings and **\$50,000** operational expenses (admin asst, travel, phone, etc.) Both expenses would continue at about 2/3 level to ensure compressed learning, articulation, marketing, are coordinated.
- Compressed learning delivery systems and master faculty -- \$7K stipend for each master teacher/year (10) **\$70,000**; \$3K for development of compressed delivery (one-time) **\$30,000, first-biennium only**;
- **\$20,000** for marketing to workforces

Total:	First Biennium:	\$333,000
	Succeeding Biennia:	\$180,000

#### Return on Investment:

- A commonly prepared workforce of 400 highly proficient computer technologists certified for proficiencies in web design, office support, network support, office administrative skills by 2008; an additional 300 workers with specialized endorsements in specific proficiencies (e.g., database management) by 2008. At least the same number every year thereafter.
- 100 small businesses, artists/artisans, entrepreneurs, and non-profit organizations with training in business planning, promoting, and accounting by 2008. At least the same number every year thereafter.
- 10% higher wages for workers with these credentials by 2008; 15% higher by 2010.
- An 18% salary increase for ten two-year college faculty by FY 2006.
- A 20% increase in certificate and degree completion rates in participating programs and colleges by 2010.
- A 20% increase in the number of specialized endorsements awarded in participating colleges by 2010.
- Time-to-degree and cost-of-degree for 500 high school graduates reduced through dual enrollment opportunities by 2008.
- A 25% increase in the number of graduates from two-year programs in computer technology and entrepreneurship placed in related work by 2010.



**Proposed Action Item:** Create a Career Pathways System for Delivering Occupational Education and Training

**State Need:** Montana needs a coordinated workforce development system that strengthens connections between community/technical colleges, local workforce investment boards (community management teams), social service agencies, secondary schools, adult education, community-based organizations and employers. Developing a Career Pathways model in occupational areas that are high-wage, high-skill would expand the system's capacity to be responsive to local, regional and state economic needs while providing workers with paths to career enhancing opportunities.

**Current Problem:** Workforce Development in Montana occurs through a variety of venues that function in competition with and in isolation from one another. These venues include public and private education, non-profit organizations, social service agencies, associations, and others. Current practice does not encourage smooth transition from one level of training/education to another. It does not provide the connection with the employer so that curricula can be developed to ensure workers have the knowledge and skills needed for the industry. It also does not provide a sequence of instruction that allows the individual to move from basic skills preparation into entry and advanced training within a career cluster. Current practice often does not provide the individual with an understanding of the opportunities within a career and full knowledge of the skills that are required to be successful.

**Proposed Solution:** Worker training would be improved and expanded through the development of Career Pathways Models in occupational areas that are high-wage, high-skill and reflect the needs of state and/or regional labor markets. Career Cluster areas include 16 clusters identified through the U.S. Department of Education, Office of Vocational and Adult Education and promoted through the Carl D. Perkins Vocational Technical Education Act of 1998. A Career Pathways Initiative (CPI) would require two priorities: 1) strategic partnership agreements with workforce development entities and business and industry and, 2) cluster-based career pathways that incorporate basic skills, entry-level training and advanced training and education.

Career Pathways Models have been successful in many two-year colleges. City College of San Francisco implemented an Information Technology Career Ladder program targeting disadvantaged populations. The program partnered with community-based organizations for case management and job retention while the college developed curricula and provided instruction in coordination with business and industry. Maricopa County Community Colleges in Phoenix developed the Bridges to Biomedical Careers program. The Governor of the Commonwealth of Virginia implemented the Pathways to Industry program to provide scholarships for students who enter Career and Technical Education programs. North Carolina legislatively enacted the Pathways Program that allocates TANF funds to 12 community colleges for short-term career training in targeted cluster areas. Edmonds Community College in Washington State established a Healthcare Partnership that provides employer cash supports and on-site credit and/or contract training for incumbent workers.

**State Investment:** Currently, Perkins State Leadership and Workforce Investment Act Incentive funds are dedicated to the development of career pathways in two-year institutions. Four \$100,000 grants have been announced for FY 05. These funds will support the development of the Career Pathways Initiative to be completed by June 30, 2005. Implementation of the Career Pathways Model is expected to begin September, 2005. Costs for implementation are dependent upon need for new program development and/or distance

learning curricula. Courses needing to be converted to a distance learning format are expected to be \$3,000 per course for development and costs for delivery would be assumed through tuition and state funds. Estimated costs per program area (4) for implementation:

Personal costs:	\$75,000 for instructional delivery
Operation costs:	\$25,000
Marketing:	<u>\$10,000</u>
Total: Per Program Area for Implementation:	\$110,000*
Grand Total: Four (4) program areas:	\$440,000*

\*These costs do not reflect partnerships contributions.

#### **Return on Investment:**

- The Monetary Benefits—Career Pathways Approach to Workforce Development:
- Enhances resource sharing for equipment, internship sites and job-based training, clinical supervision, support, recruitment, and marketing.
- Reduces costs to the institution related to remediation and student attrition
- Decreases instructional costs when industry and education share faculty
- Enhances long-term earnings
- Retrains and finds employment for dislocated workers
- Shows effective use of public education and workforce development funds

#### **Visionary Elements—Career Pathways Model:**

- Strategically links education and workforce development policy
- Better addresses workforce needs, especially in high-skill clusters
- Improves student recruitment and increases enrollment
- Builds new relationships with employers
- Improves quality of education by connecting programs and faculty to occupational, remedial, and academic divisions

#### **Relationship to Economic Change—A Career Pathway:**

- Requires strategic understanding of state, regional and local labor market needs
- Requires strong partnership with business and industry to develop curricula based on current and emerging skills and competencies
- Provides access to populations disconnected from the postsecondary system
- Defines technical skills needed at all levels of a high-growth career cluster to increase upward mobility and availability of a quality workforce within the industry

#### **Other Montana Initiatives—Career Pathways supports:**

- Industry Clusters Study, Stuart Rosenfeld, Regional Technology Strategies
- P-20 Committee of the Board of Education – Dual Credit Task Force
- Career Pathways Initiative in Two-Year Institutions
- Workforce Investment Act Incentive Grant
- National Governors' Association Policy Academy—Workforce Development

**Proposed Action Item:** Creation of Data Management System for Workforce Development

**State Need:** To effectively manage workforce development resources and maximize federal and state dollars, it is vital that Montana design and implement a data management system that will give the state the ability to collect, evaluate and analyze data across multiple workforce development programs. Implementation of such a system will allow Montana to identify the indicators of achievement for workforce development that are unique to the state but beyond those required by the federal government and can serve as a vehicle for system change.

**Current Problem:**

Even though Montana is rich with data, it is difficult to access the information due to the non-integration of multiple systems. There are several problems associated with sharing of data. For example, federal programs do not always have access to state data. Business partners may utilize completely different data from everyone else. There is limited consensus on what should be measured and what are common definitions. Finally, funding to support a shared system is currently not provided through federal and/or state resources.

**Proposed Solution:**

Creation of a data management system that consolidates data already collected and utilizes the information in new ways will provide a framework for reports to the legislature, governor, boards and other decision-makers that will demonstrate success and/or need for change through hard data.

The State of Washington established non-federal workforce system performance measures in 1996 titled Performance Management for Continuous Improvement (PMCI). This accountability system was adopted by secondary career and technical education, community and technical colleges, adult basic skills education, employment services, private career schools and the one-stop career center system. This system identified seven desired outcomes (competencies, employment, earnings, productivity, reduced poverty, customer satisfaction and return on investment). Washington has learned that introducing a statewide accountability system across programs and agencies requires teamwork. Strategic planning and evaluation processes have played a key role enhancing a systemic mindset, and it did so largely because there was a concerted effort to bring all stakeholders to the table.

Texas has pioneered systemic approaches to workforce service delivery and performance measurement for more than a decade. It is currently moving beyond common measures towards more comprehensive system measures. Support for state and system performance measures has come from state agencies, legislature, local boards and researchers. These system measures are inextricable ingredients of the strategic planning process that are used to assess system accomplishment and improvements in capacity. The annual reports and scorecard are used to inform the Governor, legislature, agencies and interested public. Outcomes are reported for the state as a whole and are selectively broken out by agency, program and, at time, target populations. The main impetus is to push for workforce system growth and development.

**State Investment:**

Identifying the start-up costs for establishing a State Data Management System may be determined by: where the system would be housed, what systems are currently in place, and what federal and/or state funds currently support data collection. Ongoing costs may potentially



be supported through a proportionate cost-sharing formula based on the number of agency administrative records processed and staffing provided by the system partners.

**Return on Investment:**

A State Data Management System will improve Montana's Workforce Development efforts by:

- Enhancing system building across agencies and programs serving diverse populations that reside across a large and regionally varied state
- Bypassing most barriers to sharing data and accountability for workforce efforts
- Improving strategic planning and evaluation through use of common, cross-program measures
- Reducing traditional program silos towards comprehensive system measures
- Engaging in a trust-building exercise between agencies with somewhat divergent missions
- Establishing standardized data and universal language
- Disaggregating data in new and innovative ways for use by decision-makers





# **Promote and Enhance Access to Postsecondary Education**

This initiative is designed to lower barriers to postsecondary education in Montana. This initiative is described in more detail in this section

**Proposed Action Item:** Implement programs which promote the value of and remove barriers to postsecondary education for Montana's citizens.

**State Need:** Although rich in natural resources, Montana's greatest treasure and the wellspring of its economy is its people. While we know we must get our people educated, Montana's educational attainment rates are instead slipping compared to other states. To successfully compete in the new 'knowledge' economy and offer its citizens the opportunity to contribute to the economy and increase their own incomes in return, Montana must reverse this trend.

**Current Problem:** The history of civilization amply demonstrates the value of high educational attainment to both the individual and society. Many Montanans, however, do not avail themselves of higher education for any of several reasons: distance, time, family demands, failure to value an education, or inability to afford the cost. The problem manifests itself in many ways:

- Slipping high school graduation rates: Even commitment to high school is weak. Montana's public high school graduation rates peaked at 86.7% in 1993 and had dropped to 77% in 2001, the lowest at any time in the past two decades. 7.6% of teenagers between the ages of 16 and 19 are considered 'dropouts' – neither a high school graduate nor enrolled in school nor looking for work.
- Low college matriculation rates: For every 100 Montana students who enter 9th grade only 42 are likely to graduate high school four years later and enroll in college within a year.
- High college costs relative to income levels: In 2000-01 the college participation rate for Montana students from low-income families was 27.9% compared to 42% for the general population. Montana low-income families pay 58% of their income at community colleges, compared with 48% nationally.
- Virtually every other state in the US has a substantial need-based aid program. Perhaps the most visible is the Georgia Hope Scholarship program, which has been credited with reversing the 'brain drain' occurring in that state. Montana is far behind every other state in the region in the amount of need-based aid provided our students.
- Low state support for education: Two-year education at community and technical colleges should be a low-cost point of access for all students. However the average Montana family pays 25% of its income at two-year colleges compared to 16% nationally. According to Measuring Up 2000, the state of Montana receives a grade of "D-" when it comes to affordability. In 2002, the affordability grade sank to F.

**Proposed Solution:** Both the perceived low value of education and the perception of educational affordability must be addressed:

- Develop and implement a 'social contract' for middle school students to directly stimulate student preparation, participation, persistence, and graduation rates. The 'contract' would guarantee a college education to *at least* a two-year degree to targeted students who agree to meet specific academic and social performance standards including completion of a rigorous high school core curriculum. Similar programs have been successful in Florida, Oklahoma, and Rhode Island.
- Emphasize outreach to tribal and community leaders. Develop and enhance partnerships, leverage resources and encourage community involvement in networks,

counseling and support programs that help students develop and achieve positive personal habits and value education in their lives. Also, develop recommendations to increase enrollment for both tribal members and non-tribal members at the state's seven tribal colleges.

- Improve individual affordability of two-year education by covering 70% of the cost through state appropriations, 20% through local property taxes, and 10% through student tuition. Two-year education and lower division undergraduate course work should be the 'gateway' to higher education and must be priced to provide the broadest access to the greatest number of academically prepared students regardless of financial resources.
- Develop recommendations to generate private sector support for financial assistance programs designed to increase postsecondary education access and worker skills improvements.
- Develop a new state aid program for Montana residents only that fills the funding gaps for targeted students after all other available sources of financial aid are applied. It is crucial that the investment be large enough to offer real help to the state's most needy students.

**State Investment:** The State's potential investment will depend on the target established for increasing postsecondary enrollment. It is crucial that the investment be large enough to have a real and significant impact on the State's most needy students -- likely at least \$5 million a biennium.

**Return on Investment:**

- Better life choices for students and families, who thus gain personally and contribute more to their respective communities.
- A decrease in the number of students age 16-24 who require academic recovery or postsecondary remediation, saving student and taxpayer dollars.
- Completion rates for traditional age post-secondary students would improve and the gap in completion rates between minority and non-minority students would decrease.
- Greater sustainability of existing efforts to improve access to higher education for Montanans. This proposal complements other Montana initiatives such as GEAR UP, and Montana Higher Education Grants (Baker Grants), but it does not duplicate them.
- Enhanced partnerships between K-12 and higher education.
- An enhanced reputation for Montana as a state that invests in its workforce. We compete with other states to attract and retain desirable business and industry.
- A more educated workforce that enables companies to start up, relocate, or open a branch facility in Montana.
- Higher employment rates and higher wages for Montana's people.



# Distance and Online Learning

The distance learning initiative involves coordinating on-line delivery of education across the entire MUS system. This initiative is described in more detail in this section.



**Proposed Action Item:** Centralize and coordinate distance learning throughout the university system.

**State Need:** Distances and lack of economies-of-scale are major barriers to providing accessible on-campus higher education to Montana's rural population. The increasing need for continuous skills upgrades and life-long learning in the rapidly changing global economy further compounds this historical impediment to wage growth and economic development. Availability of flexible and readily accessible higher education for all Montanans will become increasingly critical to higher wages and economic growth. It is simply not possible to expand the physical infrastructure in such a vast state to achieve this goal.

A specific problem currently exists with Montana's registered apprenticeship programs, which require organized, related and supplemental instruction in technical subjects related to the trade. A minimum of 144 hours for each year of apprenticeship is recommended. This instruction may be provided through classroom instruction, correspondence courses, home study, Internet delivery, or other forms of approved study. As apprenticeship opportunities expand from the traditional – carpentry, plumbing, and electrical – to the nontraditional—healthcare and information technology – there is an even greater need to develop the related instruction modules to meet these new options. Currently, related instruction modules for apprenticeship programs, both traditional and nontraditional, are developed through North Dakota State College of Science. While Montana does have some apprenticeship programs available, a more comprehensive on-line delivery program would allow us to capture more of these revenues in the state.

**Current Problem:** The current method of providing distance and distributed courses and programs is decentralized. The MUS provides an electronic catalog of distance education courses offered by system campuses and each campus handles admission, registration, tuition, financial aid, advising, and other services in its own way. Disparities are confusing and costly for students, especially students who use the offerings of more than one campus in their progress toward a degree or maintenance of credentials. There is no common approach among distance education providers to address the crucial issues affecting affordability and quality—tuition, duplication, articulation, transfer, and best practices in teaching, assessment, and support services. There are no clear links with K-12 education or other providers. There is no consistency in student services and support. There is little incentive to focus on learner populations that are different from, and not in direct competition with, traditional 'bricks and mortar' instructional providers. There is no coordinated body focusing on increasing the efficiency of distance education, developing online course and program pilots, and examining new business models for delivering and evaluating distance and distributed education.

**Proposed Solution:** Create a coordinating body within the MUS to develop and implement policy recommendations regarding the delivery of distributed and distance education including on-line education. Effective on-line education is a new paradigm and we cannot treat it as a simple adjunct of traditional on-campus learning.

To move forward toward implementation of this initiative, we envision two implementation teams working with on another on different aspects of the problem: a "vision team" and a "technical team". The vision team's role will be to develop and maintain a big picture view of what a centralized and coordinated distance learning undertaking that tells us where we are and where we want to go in some detail. The technical team would define ways and means to bring the vision to fruition.

The vital first step in nearly all cases will be for the vision team and technical teams to work together to perform a “gap analysis.” That is, the group must define in some detail both the broad outlines of the “vision” that pictures what we will have up and running when the initiative’s goals have been fulfilled and compare that in important details to what it is that exists now. The difference between the two is the “gap” that must be filled if the vision is to become reality. The technical team will then have the principal role in designing the technologies and organizations aimed at filling those gaps.

A key step in this effort must be filling out details in the overall vision and identifying short-, medium-, and long-term implementation goals for the technical team. Elements of this initiative that can effectively be implemented in the short-term should be identified as priority items.

The two teams will, collectively, be responsible for:

- Collaborating and building partnerships with the K-12 community and other education providers including developing or identifying an appropriate statewide model for distance-delivered academic offerings;
- Strategic planning, including cost analysis, organizational design, and programs (high school ‘bridge’, general education core, occupational programs that are high-cost/low enrollment, etc), technology selection, faculty development and training, evaluation, and implementation;
- Converting and/or developing new courses for online delivery that support the related instruction requirements of apprenticeship programs, especially in nontraditional apprenticeship areas—healthcare and information technology;
- Building partnerships with telephone carriers, cable television, electric utilities, local internet service providers, and others to assure the availability of broadband technology and education services (e.g. initiatives in Oregon and Alaska);
- Reducing duplication of development costs through standardization and increasing institutional capacity through the development of scalable course models;
- Statewide and national marketing of distance learning opportunities through the entire MUS;
- Linking accredited academic institutions online and ensuring centralized and/or seamlessly coordinated services to students; and
- Developing common definitions for distance learning enrollment and a statewide data collection system.

**State Investment:** On-going funding dramatically affects the role and effectiveness of virtual consortiums. \$500,000 to \$1 million has been identified in a WICHE study as the average initial capitalization for these kinds of projects. Beyond the initial funding, similar projects used other (in-direct) allocations, reassignments of personnel and resources (in-kind support), and levied membership and service fees to support their start-up phase. FTE funding from the state, tuition, partial tuition and customer services fees and donations/partnerships are also important funding sources. Beyond the initial capitalization to initiate change, eliminating the existing duplication of efforts and lack of coordination should yield net operating cost savings even with expanded MUS distance learning programs.

**Return on Investment:** First, distance learning increases access to postsecondary education. As discussed previously, by increasing the number of Montanans with education beyond the high school graduation level we will also have a significant impact on the ability of our citizens to command higher wages and better jobs. Nationally, the wages earned by individuals with at least some postsecondary education were 62% above those with only a high school diploma. Applied to Montana's average wage this amounts to a differential of more than \$15,000 per worker.

Second, there should be strong economies of scale by coordinating distance learning system-wide. Marketing and some physical infrastructure costs can be shared which will lead to significant cost savings over time. A more coordinated effort will also lead to greater purchasing power to both lower costs and affect needed telecommunications infrastructure changes in Montana.

Third, there should be a significant increase in enrollment. There is a great opportunity to increase revenues to the system with lower cost capacity. The potential to reduce time to degree for Montana students who combine on-campus and distance learning also adds system-wide efficiencies and frees capacity for additional students.

# MUS – Business Partnerships

The MUS – business partnership initiative involves forging stronger partnerships between the university system and the Montana private sector. This initiative is described in more detail in this section.



**Proposed Action Item:** Expand partnerships between the university system and Montana businesses.

**State Need:** The state ranks 50<sup>th</sup> (lowest) in average wages and is generally in the bottom five states in terms of per capita income, household income and other measures of wealth per person. Montana needs more good paying jobs. The primary factors in improving productivity (and wages) are higher worker skills and use of more advanced technology, both of which can be enormously influenced by the vast resources of our university system.

The state's economy is also heavily dependent on our small businesses. Nationally, a vast majority of the jobs that will be created during the next decade will arise in small businesses. In Montana this will occur to an even greater extent due to the almost complete absence of any large (by national standards) companies. Without a vibrant entrepreneurial culture and strong support for our small businesses the state's economy will never reach its potential. Again, the resources of the Montana University System can play an integral part in supporting entrepreneurship and small business growth.

**Current Problem:** The Montana University System will do almost \$150 million in research this year and has tremendous resources to support technology-based companies in Montana. In addition, the MUS generates considerable intellectual property that is suitable for development within the state. With very limited resources the university system has already established a number of quite successful partnerships with Montana businesses. What the state does not have is adequate resources to comprehensively identify and coordinate new, or currently unidentified, opportunities – particularly with businesses that are not physically located near one of the major research campuses. There are also very few resources available to coordinate state-wide efforts between the various MUS technology transfer offices – so businesses located near one campus who might benefit from technology resident at a different campus also have a difficult time finding the needed resources.

The MUS resources available to businesses in other areas such as marketing, management and finance advice are similarly disconnected. While most campuses have strong business-oriented programs, most of them are not well integrated with the state's business community beyond the immediate campus region. This makes it difficult for businesses to know how to tap available resources and for our many campuses to coordinate assistance and share learnings and best practices.

**Proposed Solution:** Create an office at the state level, independent of politics and individual campuses, to coordinate statewide resources, which can identify existing businesses that could benefit from university technology partnerships or other business support resources. The resources to be coordinated would include Small Business Development Offices, Regional and Local Development Offices, Small Business Innovative Research program, Montana Manufacturing Extension Center (MMEC), RAVE Technical Development Center, tribal economic development offices, etc. (These resources are EXAMPLES and not meant to be an exhaustive list of relevant programs or offices that will need to be engaged).

Using these resources, the office would identify Montana businesses that could benefit from university partnerships. The office would be responsible (with MUS support) for coordinating initial activities with university technology transfer offices or other needed MUS resources. This state office would establish a measurement and accountability system to evaluate the effectiveness of these partnerships. As a minimum this office would, in the next 18 months:



- Identify and contact all technology companies in the state that could benefit from Montana University System research or research facilities (probably about 300 businesses);
- Facilitate “cooperative agreements” between each of the state’s small business development centers and the university system identifying specific opportunities for collaborative work;
- Develop a vehicle by which the university system’s various technology transfer offices, business incubators and business support centers meet periodically to share learning and discuss best practices;
- Provide recommendations on the most successful methods to engage the state’s business community in identifying opportunities for university-business collaboration; and
- Provide recommendations to the MUS, based on input from Montana’s businesses, on ways to improve the efficiency and effectiveness of the university system.

**State Investment:** This Office would be created within the Office of the Commissioner of Higher Education and could function initially with two FTE plus travel and communication expenses; the total cost would be about \$200,000 per year.

**Return on Investment:** Creating a system to identify and foster potentially fruitful business-university system relationships would enhance economic growth through better utilization of existing resources. It would function as a “clearing house” for university system partnership inquiries from businesses considering a move to Montana and could help our university technology transfer offices find “homes” for MUS-generated intellectual properties or better utilize available technical resources.

Using the enormous resources of the Montana University System to grow our technology companies and other small businesses will create new jobs in the state. This not only builds the tax base and local economy but also helps build critical mass in university research related companies. We know from a significant amount of research in cluster development that this is probably the most effective way to build sustainable high-wage sectors of the economy.



# MUS and Government Collaboration

The MUS and government collaboration initiative is designed to provide a means for the university system to become more engaged in helping our state's leadership solve some of the major problems they are facing. This initiative is described in more detail in this section.

**Proposed Action Item:** Develop a method of outreach to determine the need of state, local, and tribal government leaders in Montana for resources available within the MUS. The university system will also develop a systematic process for prioritizing those needs and focusing available resources to solve them.

**State Need:** Every year Montana's state, local and tribal leaders face complicated, and sometimes daunting, policy decisions. Often, decisions are required in a short time period (e.g. our 90-day state legislative session) by people with varying degrees of expertise. A characteristic of Montana politics is that very few of our leaders (at the local, tribal, or state level) have large staffs capable of specializing in the many and varied policy areas in which decisions must be made. Thus, many decisions are made on incomplete information or are delayed due to a lack of credible information.

**Current Problem:** At the same time our political leaders struggle with large and complicated policy decisions, the Montana University System maintains an immense reservoir of specialized and focused talent with highly developed research capabilities. With its many economists, computer modeling professionals and other experts, the University system is in a unique position to provide new and innovative recommendations to all levels of government in many areas including: budgeting, revenue forecasting, fiscal note preparation, natural resource issues and, myriad other policy decisions facing our political leaders. While it is not reasonable to presume the entire university system will become a solely dedicated research arm of government there is nevertheless a tremendous opportunity to match the needs of government to the capabilities of the MUS to tackle some of the state's biggest problems. We need a clear path for our elected leaders to follow in order to gain access to university resources. And, the MUS needs a systematic way to coordinate and prioritize requests for policy research or other resources coming from our elected leaders.

**Proposed Solution:** There are a number of ways to facilitate better coordination between the state's leaders and the university system to start addressing our most significant issues. Below are several of these options (for discussion).

1. Establish a periodic Shared Leadership government council that meets periodically to discuss ideas for mutual problem solving. This council would be expected to prioritize these issues. For these, which would frequently be controversial, the council could consider a format similar to conference committees or faculty review committees: The University System appoints an "expert;" the Governor appoints an expert, the legislature appoints an expert, and perhaps the private sector appoints an expert on the subject. They work on it and present their findings to the group that has requested it.
2. Hire one person (0.5-1.0 FTE) to regularly meet with state and local government leaders (e.g. before the legislative session or once/twice per year) to get ideas of where MUS resources could be used effectively. This person would periodically present the list (maybe at BOR meetings) and engage some leadership team from MUS/BOR in prioritizing the requests. This person would then help coordinate and track allocation of resources from MUS directed toward the priority issues (project management role). This is the simplest solution, but the most costly since it requires hiring a person and still requires time from MUS leadership.
3. Hold meetings periodically between the senior MUS leadership and political leaders to discuss and prioritize issues where MUS resources could be of assistance. This will work better for state leadership but could work if League of Cities and Towns, MACO, etc. could be surrogate for myriad local/tribal governments. Actual project management could be decentralized to the individual campuses based on what work is agreed to be conducted. This has the advantage of facilitating better communication between education and state/local leaders but would not be as flexible since the principals would likely only be able to meet once/twice per year and would not have the staff to work "year around" on problem identification.

This solution is also static in that you could probably not respond to new issues, say during a legislative session.

4. Simply request ideas from the various political leaders in the state, both state and local, and have them present to the BOR at regularly scheduled meetings. Handle resource allocation in the normal course of BOR duties. This has the advantage of simplicity, but obviously restricts issues to the very few that could be “squeezed” into the normal course of business. Prioritization would be done the same as other agenda items for BOR.

**State Investment:** While there may be a significant cost associated with the specific policy support efforts on which the university system could choose to focus its resources, the principle cost of implementing this process is time. In order for this effort to be successful and long lasting, leaders in both government and the university system must dedicate the time to communicate and work through a prioritization process. This is not a job that can be accomplished entirely by lower level staff persons. University presidents and vice presidents along with the Commissioner of Higher Education and the Board of Regents must be personally involved at the outset in order to coordinate resources, communicate with political leaders around the state, develop a systematic process and establish credibility for the endeavor.

Some small level of staff dedicated to supporting and coordinating this effort will be needed: probably one FTE at a cost of less than \$100,000 per year.

**Return on Investment:** There is no way to specifically identify the financial benefits to the state from this collaborative effort. That will be determined by the specific policy issues on which the MUS provides support. The state general fund, however, is \$1.3 billion per year and this does not include local and tribal government spending. Directing even a small portion of this spending toward more effective ends is worth at least tens of millions of dollars each year for Montana.

Furthermore, building better relationships between the university system and the rest of government will clearly lead to some less easily quantifiable, but certainly no less significant, benefits:

- A better understanding of the resources and contributions of the MUS to Montana, which should lead to stronger support over the long-term for our education system.
- Less emotional discussion of some of the most contentious policy debates (e.g. environmental issues, social services policies) in the state which should allow the state to move forward in a more consistent and less politically divisive manner.
- The potential to set long-term economic goals which allow us to focus our limited resources on the most critical factors for success.





# MUS – Montana Promotion Partnership

The MUS – Montana Promotion initiative is designed to increase revenues to both the university system and the rest of the state's economy through better collaboration of Montana's marketing resources. This initiative is described in more detail in this section

**Proposed Action Item:** Establish a partnership between the Department of Commerce, Montana Travel Promotion Division (MTP) and Montana University System to increase Montana promotion to out-of-state prospective students and alumni.

**State Need:** Out-of-state students who enroll at our campuses contribute to the economy through payment of tuition and living expenses. Alumni who return support the tourism economy while staying connected to their schools. Alumni who remain connected are more likely to contribute to a stronger Montana economy through investment of their talents and their resources in Montana.

**Current Problem:** MTP and the MUS both have well-developed promotional programs to encourage potential prospective out-of-state students, alumni, and visitors to visit Montana. However, coordination of these efforts can be considerably improved. In some cases, there is overlap in the intended target markets. By coordinating marketing efforts, both organizations will be more effective and efficient.

**Proposed Solution:** Form a partnership between MTP and the MUS that will:

- Provide MUS with data regarding state media purchases to help identify areas to focus out-of-state student recruiting efforts;
- Provide information outlining the profile of alumni who live outside Montana to help MTP identify productive locations for media buys;
- Utilize MTP produced Montana information and images when contacting out-of-state prospective students and alumni including reunion group promotions, etc.;
- Establish mutually valuable web links;
- Promote MUS events to attract more tourists and visitors; and
- Develop a plan to market and recruit non-resident students using targeted tuition waivers and assistance.

**State Investment:** The MTP/MUS partnership can be accomplished within current expenditure levels with the exception of targeted tuition waivers or assistance programs. A \$1,000,000 annual state investment would support an additional marketing/recruiting campaign that could significantly increase out-of-state student enrollment.

**Return on Investment:** Recruiting 250 additional non-resident students each year with increased promotion and appropriate pricing could be an initial target. In that case, an annual investment of \$1,000,000 over the next two years would return approximately \$50,000,000 to the state economy over the next five years as students matriculating each of those years complete their studies.

Furthering state tourism and travel programs through increased exposure and penetration to the target market increases tourism spending in the economy and creates potential opportunities for new business locations in the state.

## List of Project Participants

The following individuals participated in this Shared Leadership endeavor in some way.

<u>NAME</u>	<u>ORGANIZATION</u>
Adams, Jeff	Office or Provost MSU
Allen, Betsy	Sen. Conrad Burns
Anderson, Steven	Student
Ardouny, Mary Ellen	University of Montana
Barber, Roger	OCHE
Sen. Barkus, Gregory	State Senate
Belangie, Philip	Dept. of Commerce, Small Business Development Center
Bisom, Mark	Dept. of Commerce, Trade & International Relations
Brander, Linda	Dept. of Commerce
Brown, Webb	Chamber of Commerce
Carlson, George	McLaughlin Research Institute
Cates, Rosalie	Montana Community Development Corp.
Childress, Ingrid	Dept. of Labor Workforce Service
Conover, Cathy	Director University Relations, MSU
Crum, Dave	McLaughlin Research Institute
Curtis, Jean	Missoula County Commissioner
Desch, Dave	Dept. of Commerce, Board of Research and Commercialization
Desch, Ann	Dept. of Commerce, Small Business Development Center
Rep. Dickenson, Sue	State House of Representatives
Driscoll, Jerry	Exec. Secretary AFL-CIO
Dwyer, Dan	VP UM Research & Development
Egelhof, Tom	Egal Marketing
Evans, Roberta	University of Montana
Fladmo, Diane	Vice Chair Board of Public Education
Fletcher, Russ	Montana Associated Technology Roundtable
Frazier, Bob	University of Montana
Fuller, John	Board of Public Education
Garrard, Jeff	Congressman Rehberg
Gianchetta, Larry	UM School of Business
Gibson, Dave	Governor's Office
Glatz, Dana	WESCO
Golnar, Steve	Livingston City Manager
Gray, Randy	Mayor of Great Falls
Groseth, Rolf	MSU President's Office
Hammerquist, Will	Montana Contractors Association
Hamilton, Lynn	Regent
Hampton, Robyn	Success Outsourcing
Hegreberg, Cary	Montana Contracting Association
Holland, Steve	Montana Extension Center MSU
Hoyle, Steve	Dean UM- Helena
Johnston, Bill	UM Alumni Association
Jones, Al	Bus. Resource Div., Dept. of Commerce
Karas, Jane	President, Flathead Valley Community College
Sen. Keenan, Bob	President, State Senate
Kennedy, Pam	Kalispell Mayor

**NAME**

King, Dick  
 Law, C.J.  
 Lamson, Joe  
 Lawton, John  
 Rep. Lindeen, Monica  
 Lombardi, Bill  
 Loran, Todd  
 Luck, Holly  
 Lutts, Erin  
 Main, Andrean  
 Sen. Mangan, Jeff  
 Mathis, Gina  
 McCoy, Tom  
 McGinley, Mike  
 McKinney, Matt  
 Meloy, Steve  
 Rep. Mendenhall, Scott  
 Mercer, John  
 Michels, Joe  
 Miller, Jim  
 Miller, Kirk  
 Moe, Mary Sheehy  
 Morehouse, Gary  
 Morgan, Margaret  
 Ness, Quinn  
 Obbink, Kim  
 Parisot, Arlene  
 Peregoy, Bob  
 Poole, Andy  
 Reardon, Jay  
 Riley, John  
 Roloff, Craig  
 Rudbach, Tony  
 Sen. Ryan, Don  
 Ryan, Lori  
 Semenik, Rich  
 Sen. Shea, Debbie  
 Smith, David  
 Snezek, Steve  
 Stearns, Hal  
 Stearns, Sheila  
 Sundsted, Rod  
 Swanson, Larry  
 Sen. Tester, John  
 Tuss, Paul  
 Varone, Anita  
 Williams, Richard  
 Williamson, Paul

**ORGANIZATION**

Montana Economic Developers Association  
 Dawson Community College  
 Office of Public Instruction  
 Great Falls City Manager  
 State House of Representatives  
 Lombardi Communications  
 Watercolor Computer Training  
 Sen. Max Baucus  
 Mid-Rivers Communications  
 Rural Dev. & Finance Corp.  
 State Senate  
 Montana Contractors Association  
 VP MSU-Bozeman Research & Tech Transfer  
 Beaverhead County Commissioner  
 UM School of Law  
 Executive Secretary, Board of Public Education  
 Extension Economic Development  
 Chair, Board of Regents  
 Dean MSU-Billings  
 MSU- Bozeman  
 Chair Board of Public Education  
 Dean, Great Falls COT  
 Dept. of Commerce  
 Morgan Consulting  
 Dept. of Commerce, Certified Regional Development Corp.  
 Director Extended Studies MSU  
 OCHE, Work Force Development  
 Salish Kootenai College  
 Dept. of Commerce, Business Resources Div.,  
 AFL-CIO  
 TCS America  
 MSU  
 UM  
 State Senate  
 Governor's Office of Indian Affairs  
 Dean MSU Bozeman Business Department  
 State Senate  
 Pres. Bozeman Chamber of Commerce  
 Office of the Lieutenant Governor  
 Retired educator  
 Commissioner of Higher Ed  
 OCHE Fiscal Department  
 Center for Rocky Mountain West UM  
 Minority Leader, State Senate  
 Montana Economic Developers Association  
 Lewis & Clark County MACD  
 MSU  
 Dean UM-COT



## **APPENDIX F**



## AGREEMENT

WHEREAS, Article VIII, section 12, of the Montana Constitution vests in the Legislature the responsibility to ensure strict accountability of all revenue received and spent by the state, counties, cities, and towns and all other local governmental entities; and

WHEREAS, Article X, section 9, of the Montana Constitution vests in the Board of Regents of Higher Education the full power, responsibility, and authority to supervise, coordinate, manage, and control the Montana University System and to supervise and coordinate other public institutions assigned to it by law; and

WHEREAS, the Joint Subcommittee on Postsecondary Education Policy and Budget, comprised of members representing the Montana Legislature, the Montana Board of Regents, and the Executive Branch, has identified statewide public postsecondary education policy goals and accountability measures with the input and feedback of the Montana University System;

This AGREEMENT, between the Joint Subcommittee on Postsecondary Education Policy and Budget and the Montana University System, identifies the statewide public postsecondary education policy goals and related accountability measures that will be used as an assessment tool for policymakers, the university system, and the public in evaluating the achievement of the policy goals.

The policy goals and accountability measures are as follows:

1. Prepare students for success through quality education
  - a. Completion Rates
  - b. Retention Rates
2. Promote access and affordability
  - a. Affordability compared to other states
  - b. State Support as a percent of personal income and per capita income
3. Deliver efficient, coordinated services
  - a. Transferability among institutions
  - b. Percent of expenditures in instruction, administration, athletics, etc.
4. Be responsive to market and employment needs and opportunities
  - a. Job placement rates by field or program
  - b. Growth in FTE enrollment, certificates, and degrees conferred in 2-yr education
5. Contribute to Montana's economic and social success
  - a. Research and Development receipts and expenditures
  - b. Technology transfers (licensing and commercialization)
6. Collaborate with the K-12 school system and other postsecondary education systems

- a. Collaborative programs with K-12, Community Colleges, and Tribal Colleges and private colleges (when appropriate).
- b. Average SAT or ACT scores of first time full time MUS freshmen

The parties further agree to:

1. The Montana University System shall prepare an Accountability Report presenting appropriate and current data for each accountability measure in an easy-to-read format.
2. The Accountability Report shall be presented to the House and Senate Education Committees and the Joint Appropriations Education Subcommittee by the 10<sup>th</sup> legislative day of the 59<sup>th</sup> Legislature.
3. The Accountability Report shall be posted to the Board of Regents website and the Joint Subcommittee on Postsecondary Education Policy and Budget website.
4. The Montana University System shall prepare a bi-annual update to the Accountability Report and post the Report on the Board of Regents website by January 1 each year that the update is due.

This agreement expires January 1, 2007.

Dated this 7<sup>th</sup> day of July 2004.

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Senator Gregory D. Barkus, Chairman  
Joint Subcommittee on Postsecondary  
Education Policy and Budget

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John Mercer, Chairman  
Montana Board of Regents

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Representative Sue Dickenson, Vice  
Chairman, Joint Subcommittee on  
Postsecondary Education Policy and Budget

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Sheila Stearns, Commissioner  
Office of the Commissioner of Higher  
Education





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